

FILED

U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

DEC 15 2003

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

BY DAVID J. MALAND, CLERK
DEPUTY SCOTT O'GRADY

Plaintiff,

v.

TWENTIETH CENTURY FOX FILM
CORPORATION
and DISCOVERY COMMUNICATIONS, INC.,

Defendants.

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CIVIL ACTION NO. 5:02CV173

"JURY"

JUDGE DAVID FOLSOM

JOINT FINAL PRE-TRIAL ORDER

This cause came before the Court at a pre-trial management conference held on _____,
2003 pursuant to Local Rule CV-16 and Rule 16 of the Federal Rules of Civil Procedure.

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B. STATEMENT OF JURISDICTION

Jurisdiction in this case is based upon 28 U.S.C. §§ 1331, 1338, and 15 U.S.C. § 1121 as this is a civil action arising under the Lanham Act, 15 U.S.C. § 1051, *et seq.* This Court also has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 as there is complete diversity among the

parties to this suit and as the amount in controversy exceeds \$75,000, exclusive of interest and costs. This Court has supplemental jurisdiction of claims arising under state law pursuant to 28 U.S.C. §§ 1338(b) and 1367. Jurisdiction is not disputed.

C. NATURE OF ACTION

This case involves allegations of false advertising, false endorsement, misappropriation and unfair competition in violation of the federal Lanham Act or under Texas common law.

Plaintiff is Scott O'Grady, a former U.S. Air Force pilot who was shot down over Bosnia in 1996 and rescued six days later by the U.S. Marines. Defendants are Twentieth Century Fox Film Corporation ("Twentieth Century Fox"), a movie studio, and Discovery Communications, Inc. ("Discovery"), a cable television network which operates the Discovery Channel.

Beginning in 1997, one of the programs Discovery has aired on the Discovery Channel is a documentary about O'Grady's experience and rescue in Bosnia called *Behind Enemy Lines: The Scott O'Grady Story* (the "Documentary").

Twentieth Century Fox produced a movie, entitled *Behind Enemy Lines*, released in theaters in late November 2001, starring Owen Wilson and Gene Hackman (the "Movie").

O'Grady contends that Twentieth Century Fox and Discovery used his name likeness, and image to advertise, promote, and endorse the Movie on a version of the broadcast of the Documentary on the Discovery Channel on November 28, 2001. O'Grady further contends that, on the November 28, 2001 broadcast, Defendants falsely promoted the Movie to consumers as if the Movie was O'Grady's story.

Defendants deny liability in this case. Twentieth Century Fox and Discovery contend that, on the November 28, 2001 broadcast, O'Grady's name or likeness was used only in connection with Discovery's Documentary about O'Grady and not to promote the Movie. They

also contend that the Movie was not advertised or promoted on November 28, 2001 as being O'Grady's actual story or represent that O'Grady had endorsed the Movie.

D. CONTENTIONS OF THE PARTIES

Plaintiffs' Contentions

Scott O'Grady is a former United States Air Force fighter pilot who was shot down while flying a mission over Bosnian airspace in 1995. He evaded capture for six days before being rescued by the Marines. O'Grady has written books regarding his experiences, and he has been the subject of documentaries and many news stories. O'Grady currently makes his living by delivering motivational speeches to groups across the United States.

In late 2001, Defendant Twentieth Century Fox Film Corporation released the feature film entitled *Behind Enemy Lines*. Although that film was inspired by the events that happened to Scott O'Grady, *Behind Enemy Lines* is a work of fiction that was not intended to portray actual events or real live persons. Indeed, in the credits to its film, Fox disclaimed any connection between its film and real people or events.

Fox originally intended to release *Behind Enemy Lines* in theaters in early 2002. After the tragic events of September 11, 2001, however, Fox decided to move up the release date of its film to take advantage of the moment, including the renewed interest in everything patriotic in the United States. That led to an additional problem: Fox had a fictional film. Test audiences indicated that they would prefer to see something more realistic.

After learning of its problem, Fox made a few changes to the film, to try to make it more realistic. Fox also decided upon a promotional campaign for the film that included tie-ins to the United State military. O'Grady contends that, as part of its promotional campaign to capitalize

upon patriotic events and real heroes, Fox decided to use Scott O'Grady and the events concerning his downing and rescue in Bosnia to promote Fox's movie.

Defendant Discovery Communications, Inc. presented Fox with the opportunity to advertise its film as part of an event night featuring a docu-drama regarding Scott O'Grady that was entitled *Behind Enemy Lines: the Scott O'Grady Story*. Fox provided Discovery with promotional materials for its movie. Discovery then edited the docu-drama to intentionally intertwine the documentary and Fox's movie to create a new program that was aired on November 28, 2001, just two days before the critical opening weekend for *Behind Enemy Lines*. O'Grady contends that Defendants took these actions, and created and aired the November 28 version of the docu-drama for a commercial purpose, to promote Fox's movie and earn additional profits. That November 28 version of the docu-drama was not created for a newsworthy or incidental purpose.

O'Grady contends that Defendants violated the Lanham Act and Texas common law when they created and aired the November 28, 2001 version of *Behind Enemy Lines: the Scott O'Grady Story*. In particular, Defendants inter-twined Discovery's docu-drama and Fox's film in such a manner that it conveyed a false message to consumers that Fox's film *Behind Enemy Lines* was Scott O'Grady's true story. Moreover, Defendants presented that docu-drama in a way that made it appear to consumers that O'Grady had participated in and/or endorsed Fox's movie. O'Grady contends that Defendants' actions subject them to liability for false advertising and false endorsement under the Lanham Act, and for misappropriation of name, likeness, or image, and for unfair competition under Texas law. O'Grady did not consent to Defendants' use of O'Grady as part of the promotional campaign for *Behind Enemy Lines*. At the time the movie was released in theaters, Defendants had not even asked.

O'Grady contends that Defendants should be held liable for damages resulting from their unlawful actions. In particular, Defendants should be required to pay O'Grady the reasonable value of the use of O'Grady's name, likeness, image, and endorsement to promote *Behind Enemy Lines*. Furthermore, Defendants should be required to pay O'Grady the earnings that are attributable to their use of O'Grady and his story. Because Defendants acted together to cause O'Grady's injury, Defendants should be held jointly liable for those damages.

Defendant Twentieth Century Fox Film Corporation's Contentions

Defendant Twentieth Century Fox Film Corporation ("Twentieth Century Fox") is a producer and distributor of motion pictures. Twentieth Century Fox produced the movie, entitled *Behind Enemy Lines*, starring Owen Wilson and Gene Hackman, as a work of fiction about an American pilot who was shot down over Bosnia (the "Movie"). The original script for the Movie was conceived in 1995, with inspiration from the real life events involving the survival and rescue of Plaintiff Scott O'Grady ("O'Grady").

O'Grady is a former United States Air Force fighter pilot who was shot down while flying a mission in an F-16 over Bosnian airspace in 1995. He evaded capture without incident for six days before being rescued by the Marines six days later. Shortly thereafter, O'Grady left active military duty and began a career as a motivational speaker. O'Grady has co-authored two books, *Return With Honor* and *Basher Five-Two*, regarding his experiences and been interviewed in conjunction with another book describing the details of his rescue. In 1996, O'Grady's literary agency, International Creative Management ("ICM") sold the film and television rights to *Return With Honor* under a five-year option to Orion Pictures Corporation ("Orion"), a movie studio, for \$250,000, plus another \$150,000, if a movie based on his book went into production, and another \$50,000 to O'Grady as a consultant if the movie was made, plus an additional

percentage of profits. Despite the fact that draft screenplays were written, that movie was never made because the production company disbanded. O'Grady is not aware of any other reason why that movie was not made. O'Grady specifically admits that he knows of no evidence suggesting that Twentieth Century Fox had anything to do with Orion's decision not to make that movie. In January 2001, after the option on that movie deal lapsed, the rights to *Return With Honor* reverted to O'Grady. O'Grady kept the \$250,000 option fee. Neither O'Grady nor his agents made any effort to sell the movie rights to his story after it was clear that Orion would not make a movie of O'Grady's story. If O'Grady wishes to make a movie with another company, he must reimburse Orion \$717,000, the amount of money Orion advanced to O'Grady and others in connection with the production, plus interest.

O'Grady has also been the subject of documentaries and many news stories. The news coverage of O'Grady's ordeal was extensive. One documentary detailing O'Grady's downing and rescue was produced by the British Broadcasting Corporation (the "BBC"). The BBC produced an in-depth documentary about O'Grady, interviewing O'Grady, his family, his fellow pilots, Marine rescuers and their commanding officer (the "BBC Documentary"). The BBC Documentary included portions of these interviews as well as re-enactments of the real events using an actor recreating O'Grady's experience in Bosnia between June 2 and June 8, 1995. O'Grady and his father and sister signed releases granting the BBC, and all licensees and assigns, "ALL RIGHTS" to the BBC documentary without limitation, "FOR ALL PURPOSES EVERYWHERE," specifically agreeing to use of their name, likeness and "contribution" for "trailers" (*i.e.*, promos) and for "promotional...purposes" (the "BBC/O'Grady Release(s)").

The Movie was prompted by Twentieth Century Fox's desire to make a movie that could be loosely based on the events covered on the news involving the downed pilot, O'Grady. The

Movie's director was interested in making a film that would address the Bosnian civil wars and the lack of intervention by European countries as well as the ethnic cleansing. Twentieth Century Fox secured the assistance of the U.S. military in the making of the Movie. The U.S. Department of Defense and the U.S. Navy provided technical assistance in connection with the script and the filming of the Movie.

Twentieth Century Fox received a proposal from Discovery Communications, Inc. ("Discovery") for broadcasting a special programming event involving the Movie on the Discovery Channel. In its proposal to Twentieth Century Fox, Discovery noted that similarities existed between the Movie and the BBC Documentary, which had been licensed by Discovery and re-titled "Behind Enemy Lines: The Scott O'Grady Story" (the "Discovery Documentary"). Having already purchased \$275,000 of advertising time on the Discovery Channel to reach its targeted audience for the Movie, Twentieth Century Fox approved the special programming event proposed by Discovery and agreed to purchase an additional \$125,000 of air time for advertisements created by Twentieth Century Fox for the Movie (the "Twentieth Century Fox – created advertisements"). Twentieth Century Fox and Discovery chose to air the Discovery Documentary twice on November 28, 2001 (the "November 28 Broadcast"). The Twentieth Century Fox-created advertisements were broadcast on the Discovery Channel over the course of several weeks, but only two aired alongside the November 28 Broadcast. Twentieth Century Fox did not pay for the air time for the November 28 Broadcast and did not pay any production costs associated with it. Twentieth Century Fox's total advertising budget for the Movie was \$30 to \$40 million. The total amount (\$125,000) spent by Twentieth Century Fox to air the Twentieth Century Fox-created advertisements for the Movie during the November 28 Broadcast represents .313% to .417% of Twentieth Century Fox's \$30 to \$40 million budget

for the Movie. Twentieth Century Fox promoted the Movie using footage shot during the Movie's premiere at the Naval Air Station in San Diego and on the Fox Cable Channel with 30 second spots airing 50 times per day, which began two weeks before the premiere. None of these promotions used O'Grady's name or likeness. Twentieth Century Fox also promoted the movie by sponsoring NASCAR events on NBC and TNT as well as on Fox owned and operated television stations and cable channels. Neither O'Grady's name nor his likeness were used in any of these promotions.

In connection with the November 28 Broadcast, Discovery agreed to produce and broadcast new material to insert into the breaks in the Discovery Documentary called "Interstitials." Discovery also produced material encouraging viewers to watch the special programming event referred to as "Tune-Ins." The Tune-Ins were created from material from the Discovery Documentary to promote the program and encourage viewers to watch. The Tune-Ins were aired "one to two weeks prior" to November 28, 2001 and informed the viewing public that the November 28, 2001 broadcast of the Discovery Documentary would be sponsored by the Movie. The Interstitials, Tune-Ins and Twentieth Century Fox-created advertisements (collectively, the "Challenged Material") are the only "advertising" complained of by O'Grady. The Challenged Material did not expressly state that the Movie was O'Grady's actual story or that the Movie was authorized or endorsed by O'Grady. O'Grady's name and likeness do not appear in any of the Twentieth Century Fox-created advertisements nor any promotions for the Movie.

Prior to the theatrical release of the Movie on November 30, 2001, O'Grady attended a screening of the Movie and participated in media coverage surrounding the Movie, including appearances on nationally syndicated television programs, *Hot Ticket* and *Entertainment*

Tonight, and interviews with print media. O'Grady was paid \$1,200 for his appearance on *Hot Ticket* on November 26, 2001, at which time he rated the Movie as "Hot". Although he saw the November 28 Broadcast on the Discovery Channel within a few days of its broadcast, O'Grady never requested the producers to remove or retract his positive comments regarding the Movie. Twentieth Century Fox contends that it did not misappropriate O'Grady's name or likeness in the Challenged Material. O'Grady's name and likeness were not used to advertise or promote the Movie. Any reference to O'Grady's name or likeness was in an incidental manner or for a newsworthy purpose, and not for a commercial purpose, since the Movie was inspired in part by the historical events surrounding O'Grady's life. Twentieth Century Fox also contends that O'Grady consented to the use of his name and likeness and relinquished his rights to further approval in connection with the BBC Documentary and all future licensed broadcasts, including the November 28 Broadcast with the Challenged Material. By signing the BBC/O'Grady Release, O'Grady granted to all licensees and assigns (including Discovery), "ALL RIGHTS" ... without limitation, "FOR ALL PURPOSES EVERYWHERE," specifically agreeing to use of his name, likeness and "contribution" for "trailers" and for "promotional...purposes."

It is well established that motion pictures, documentaries and television programs are protected speech under the First Amendment to the United States Constitution and the Texas Constitution. Accordingly, Twentieth Century Fox contends that the Movie and the November 28 Broadcast with the Challenged Material are protected speech. Twentieth Century Fox further contends that no statements were broadcast during the November 28 Broadcast that falsely stated that the Movie was O'Grady's actual story or that O'Grady endorsed the Movie. Twentieth Century Fox also contends that the Challenged Material was not intended to convey a message to the viewing public that the Movie was O'Grady's actual story or that O'Grady endorsed the

Movie. Twentieth Century Fox further contends that it did not engage in unfair competition nor did it enter into a conspiracy with Discovery that resulted in harm to O'Grady.

Defendant Discovery Communications, Inc.'s Contentions

Defendant Discovery Communications, Inc. ("Discovery") is a non-fiction cable network which operates the Discovery Channel. The Discovery Channel airs non-fiction educational programs on science, technology, engineering, natural history, history, military history, adventure and exploration.

Plaintiff Scott O'Grady was a U.S. Air Force pilot whose F-16 was shot down over Bosnia on June 2, 1995. He evaded capture without any interaction with hostile forces and was rescued six days later. He left active duty a few months after his return and has since pursued a career as a motivational speaker.

The news of O'Grady's six days behind enemy lines was widely reported. The British Broadcasting Corporation (the "BBC") produced an in-depth documentary about O'Grady, interviewing O'Grady, his family, his fellow pilots, Marine rescuers and their commanding officer (the "BBC Documentary"). The BBC Documentary included portions of these interviews as well as re-enactments of the real events using an actor and O'Grady's father and sister to recreate the six days he was behind enemy lines.

O'Grady and his family signed releases granting the BBC, and all licensees and assigns, "ALL RIGHTS" to the BBC documentary without limitation, "FOR ALL PURPOSES EVERYWHERE," specifically agreeing to use of their name, likeness and "contribution" for "trailers" (i.e., promos) and for "promotional...purposes" (the "BBC/O'Grady Release(s)").

The BBC licensed the BBC Documentary through a chain of agreements to Discovery. The Discovery Channel first broadcast the documentary under the title, *Behind Enemy Lines: The*

Scott O'Grady Story (the "Documentary"), in June 1997, after which it aired 31 times over four years under the same title. Discovery contends:

1. That Discovery had the contractual right to broadcast the Documentary. O'Grady admits this.
2. That O'Grady registered no complaint about the Documentary before November 28, 2001, the broadcast in issue. O'Grady admits this.
3. That Discovery had the contractual right to use O'Grady's name and likeness in reference to the Documentary and to encourage viewers to tune in to the Documentary. O'Grady admits this.
4. That O'Grady has no claims arising out of the content or the title of the Documentary. O'Grady admits this.
5. That O'Grady wrote to the BBC to praise its Documentary. O'Grady admits this.
6. That O'Grady lists the Discovery Documentary in biographical materials distributed to promote his activities as a speaker by his speakers' agency, the Washington Speakers Bureau. O'Grady admits this.
7. That O'Grady does not have exclusive ownership of the events of his six days behind enemy lines and those events could be used as the basis for a factual documentary without his permission. They could also be the basis for a fictional movie inspired by O'Grady's story. O'Grady admits this.

The Discovery Channel regularly runs special programming events in conjunction with the release of new movies by motion picture studios. When a motion picture studio makes a substantial commitment to buy advertising space on the network, the Discovery Channel on occasion broadcasts an evening of one or more hours of factual programming on topics

thematically-related to the film. The evening typically includes additional educational material as well as a sneak preview, behind-the-scenes footage and interviews with the stars and production personnel from the film, usually taken from the studio's electronic press kit that the studio distributes to hundreds of media outlets.

In the Fall of 2001, Discovery submitted a proposal to defendant Twentieth Century Fox Film Corporation ("Twentieth Century Fox") for a special programming event centered around a broadcast of the Documentary and Twentieth Century Fox's soon-to-be-released feature film, *Behind Enemy Lines* (the "Movie"), a fictional film inspired by O'Grady's experiences in Bosnia. Discovery called Twentieth Century Fox's attention to the similarity of the titles and themes of the Movie and the Documentary, both about downed American pilots in Bosnia rescued by the Marines. Twentieth Century Fox bought air time for the advertisements it created for the Movie but did not pay for the air time for the special programming event nor any of the production costs.

Discovery created new material to insert into the breaks in the Documentary (called "interstitials") and created material encouraging viewers to watch the special programming event (called "tune-ins"). The interstitials and tune-ins described the Documentary and the Movie and added new educational, scientific and historical information. Discovery paid \$27,065 in production costs for the interstitials and tune-ins. Twentieth Century Fox approved the material created for the special programming event.

The interstitials and tune-ins stressed the difference between the "fact" of the Documentary and the "fiction" of the Movie, "the fact and fiction of true survival." For example, the opening draws a contrast between the Movie and the Documentary with this text:

Plus, we'll take a behind the scenes look and get a sneak peek at Twentieth Century Fox's new film "Behind Enemy Lines," a detailed look at the fact and fiction of true survival.

When the word "fact" is heard, the viewer sees a portion of the Documentary where the actor who recreated O'Grady's ordeal is shown. When the word "fiction" is spoken, an image of "Chris Burnett," the fictional pilot played by actor Owen Wilson appears on the viewer's screen in a scene from the Movie.

Since the Documentary had aired many times before, the Documentary was updated and enhanced by including material called "factoids." One factoid states: "Like Scott O'Grady, Owen Wilson's character, Naval Aviator Chris Burnett, runs into some challenges once his plane is down." Wilson's character is shown evading capture and trying to convince Bosnian villagers that he is their friend, not foe. In fact, it is widely known and shown in the Documentary that O'Grady himself did not encounter any Bosnians. His "major challenge," shown in a "factoid," was "finding food for survival . . . Just how safe are tree leaves, bugs and rainwater? The nutritional facts when we return to *Behind Enemy Lines: The Scott O'Grady Story* on the Discovery Channel." The factoid provides the viewer with information about the iron, vitamins, protein and carbohydrates of insects and the importance of water to maintain the body. Another "factoid" provides information about U.S. military survival training like O'Grady would have received, and a third "factoid" called attention to the fact that the U.S.S. *Carl Vinson*, the aircraft carrier shown in the Movie, was at that time engaged in the conflict in Afghanistan. This scientific, educational information – content of interest to the core Discovery Channel viewer – is exactly what the Discovery Channel is best known for.

O'Grady challenges material broadcast on the Discovery Channel, including the tune-ins aired in the week before the event, the interstitial material, including the educational factoids

relating to the Documentary, the sneak preview of scenes from the Movie, behind-the-scenes footage of the making of the Movie, interviews with the actors, producer and director of the Movie, and the two Twentieth Century Fox-created advertisements for the Movie broadcast on November 28, 2001 ("November 28 Broadcast"). None of the November 28 Broadcast used O'Grady's name or likeness in reference to the Movie. O'Grady's name and likeness were used in the interstitials and tune-ins only in reference to the Documentary. None of the November 28 Broadcast said or suggested that the Movie, as contrasted with the Documentary, is a true account of O'Grady's six days behind enemy lines. None of the November 28 Broadcast said that O'Grady "endorsed," "authorized" or "participated in" the Movie or that the Movie was "made in cooperation with" him.

Discovery contends that it did not violate the Lanham Act or Texas common law when it rebroadcast the Documentary on November 28, 2001 because, among other things:

1. O'Grady, in signing the BBC/O'Grady Release, consented to the use of his name and likeness in connection with all future licensed broadcasts of the BBC Documentary and relinquished his rights to further approval of all future airings, including the November 28 Broadcast.
2. O'Grady's name or likeness was used in the Documentary and in the additional material for a newsworthy, educational purpose, and not for a commercial purpose. Any reference to O'Grady was incidental to the Documentary and the very public events in which O'Grady was involved.
3. The Documentary and the Movie are works protected by the First Amendment and the Texas Constitution. Similarly, November 28 Broadcast relating to the Documentary and the Movie are protected by the First Amendment and the Texas

Constitution. Any reference to O'Grady was to contrast "the fact and fiction of true survival" since the Documentary was about O'Grady's story and the Movie was inspired by O'Grady's experience.

4. Discovery did not represent or advertise that the Movie was O'Grady's actual story or that O'Grady endorsed or authorized the Movie at any point in the November 28 Broadcast.
5. Discovery did not broadcast a false or misleading statement of fact which deceived or influenced movie goers to buy tickets to the Movie.
6. Discovery did not intend to imply or otherwise knowingly broadcast any false statement that the Movie was O'Grady's story or that O'Grady endorsed the Movie. Instead, the Discovery Channel included words and visual cues to distinguish its fact-based Documentary about O'Grady from the fictional story and character of Chris Burnett in the Movie.
7. Discovery did not engage in unfair competition nor in any unlawful conspiracy with Twentieth Century Fox resulting in any harm to O'Grady.

If O'Grady were to succeed in proving his claims, O'Grady seeks two types of damage: the value of his name or likeness to Discovery for its use in the November 28 special programming event and profits attributable to that use. The value to Discovery for the use of O'Grady's name and likeness in the November 28 Broadcast is measured by what Discovery would have paid had it engaged O'Grady to participate in the one-hour special programming event. Discovery would have paid him between zero and \$7,500 – the range typically paid by Discovery to scientists or other persons with relevant knowledge who host or otherwise participate in such special programming events.

Discovery's revenues attributable to the November 28 Broadcast were \$125,000, the amount paid by Twentieth Century Fox for advertising time it purchased on the Discovery Channel because of the special programming event. Of that revenue, Discovery's profits were approximately \$70,000. Discovery did not participate in or receive any of Twentieth Century Fox's profits from the Movie. In any event, O'Grady can not be awarded Discovery's profits because Discovery did not act willfully in broadcasting any false advertisement.

Because Discovery did not make the Movie, damages measured by the value of O'Grady's life rights for the Movie, the value of advertising for the Movie as his story or the value of his endorsement of the Movie are not recoverable from Discovery.

O'Grady has not lost any speaking engagements as a result of the November 28, 2001 Broadcast. Since the November 28, 2001 Broadcast, his speaker's fees and the number of speaking engagements have increased, totaling over 70 appearances for \$657,000 in 2002.

An award for both the value of O'Grady's name and likeness and Discovery's and Twentieth Century Fox's profits would result in double recovery.

Exemplary damages against Discovery are unwarranted because Discovery did not act knowingly and with malice (that is, ill will, bad or evil motive) but, instead, was acting to provide information of interest to Discovery Channel viewers.

E. STIPULATIONS AND UNCONTESTED FACTS

1. Plaintiff Scott O'Grady is a former United States Air Force fighter pilot who was shot down over Bosnia in 1995.
2. He evaded capture for six days and survived by drinking rainwater and eating insects, before being rescued by the United States Marines.
3. Between June 2 and June 8, 1995, the events involving O'Grady were the dominant news story in the United States and indeed, throughout the world.
4. Since 1996, O'Grady's primary occupation has been as a motivational speaker affiliated with the Washington Speakers Bureau.

5. O'Grady has written two books, entitled Return with Honor (with Jeff Coplon) and Basher 52 (with Michael French), which is a book for young adults. O'Grady has also been the subject of other books, documentaries, and news stories.
6. Following his rescue, O'Grady participated in many news conferences and interviews.
7. O'Grady was hosted by President Clinton at a White House luncheon.
8. O'Grady also agreed to be interviewed for a book about his rescue by author Mary Pat Kelly, who conducted taped conversations with O'Grady about his experiences. She included some of these conversations in the book *Good to Go*, published in 1996.
9. One of the documentaries O'Grady appeared in was the documentary entitled *Missing in Action*, about O'Grady's experience in Bosnia between June 2 and June 8, 1995. That documentary was created and produced by the British Broadcasting Corporation (the "BBC") (the "BBC Documentary").
10. In June 1996, O'Grady gave an on-camera interview for the BBC Documentary.
11. O'Grady's father, Dr. William O'Grady, and his sister, Stacy O'Grady, also gave on-camera interviews and participated in reenactment scenes for the BBC Documentary, recreating their experiences during the six days O'Grady was missing and their receipt of the news of his rescue.
12. In addition, the BBC conducted on-camera interviews of O'Grady's fellow pilots and several of the Marines and their commanding officer who participated in his rescue.
13. An actor recreated O'Grady's six days in Bosnia.
14. Defendant Discovery Communications, Inc. ("Discovery") entered into a series of agreements with the BBC to obtain a license to air the BBC documentary in the United States. Discovery's rights in that documentary are governed by the terms of the agreements between Discovery and the BBC.
15. Discovery is a cable network which operates 12 channels, including Discovery Channel, TLC (The Learning Channel), Animal Plant, Discovery Health, Travel Channel, Discovery Times, Discovery Kids, Science Channel, Home & Leisure, Discovery Wings, Discovery en Espanol, and HD Theater.
16. Defendant Twentieth Century Fox Film Corporation ("Twentieth Century Fox") produced a movie entitled *Behind Enemy Lines*, that is a work of fiction about an American pilot who was shot down over Bosnia (the "Movie"). The Movie was filmed in the Czech Republic.
17. Originally, Twentieth Century Fox scheduled the release of the Movie for early in the year 2002.

18. After September 11, 2001, Twentieth Century Fox decided to move up the release date of the Movie to November 30, 2001.
19. In the Fall of 2001, when Discovery learned about Twentieth Century Fox's upcoming move, Discovery submitted a proposal to Twentieth Century Fox for a special programming event involving the Movie. From its files of military-related factual programming, Discovery selected *Behind Enemy Lines: the Scott O'Grady Story* (the "Documentary") for the proposed special programming event.
20. In its proposal to Twentieth Century Fox, Discovery noted the similarity of the stories between the Movie and the Documentary, both about downed American pilots in Bosnia rescued by the Marines, both having *Behind Enemy Lines* in their title, but with the Documentary bearing the tag line: "*The Scott O'Grady Story*."
21. Twentieth Century Fox gave approval to the special programming event.
22. Discovery and Twentieth Century Fox agreed that Discovery would air the special programming event for the Movie twice on the night of November 28, 2001, two days before the opening weekend for the Movie.
23. Twentieth Century Fox's advertising budget for the Movie was \$30 to \$40 million.

F. CONTESTED ISSUES OF FACT AND LAW

Plaintiff's Statement of Contested Issues of Fact

1. Whether the November 28 Rebroadcast is an advertisement.
2. Whether the November 28 Rebroadcast was created to promote Fox's movie, *Behind Enemy Lines*.
3. Whether the November 28 Rebroadcast was created to propose a commercial transaction, that is to sell tickets to *Behind Enemy Lines*.
4. Whether the November 28 Rebroadcast was created by DCI to earn a commercial profit.
5. Whether Fox was motivated by commercial interests, such as the desire to link its fictional movie, *Behind Enemy Lines*, with a real-life hero, when it agreed to participate in the creation and airing of the November 28 Rebroadcast.
6. Whether Fox paid DCI money to create and air the November 28 Rebroadcast.
7. Whether the DCI docu-drama entitled *Behind Enemy Lines: the Scott O'Grady Story* is inextricably intertwined with Fox's *Behind Enemy Lines*.
8. The reasons why Defendants decided to tie *Behind Enemy Lines* to O'Grady.

9. The reasons why Defendants decided to move the opening day for the movie *Behind Enemy Lines* and the airing date of DCI's docu-drama with Fox's interstitials up to November, 2001.
10. The extent of the relationship between the DCI docu-drama entitled *Behind Enemy Lines: the Scott O'Grady Story* and Fox's *Behind Enemy Lines*.
11. The extent of the relationship, if any, between *Behind Enemy Lines* and O'Grady.
12. Whether the November 28 Rebroadcast is false and misleading in that represents, either expressly or by implication, that O'Grady endorsed or collaborated in the making of *Behind Enemy Lines*.
13. Whether the November 28 Rebroadcast is false and misleading in that it represents, either expressly or by implication, that *Behind Enemy Lines* is O'Grady's true story.
14. Whether the November 28 Rebroadcast is a compare and contrast piece comparing Fox's movie and DCI's docu-drama.
15. Whether there is commercial value associated with O'Grady's name, likeness, or image.
16. Whether the November 28 Rebroadcast uses O'Grady's name, likeness, or image for a commercial purpose.
17. Whether Defendants created the November 28 Rebroadcast for a commercial purpose.
18. Whether the November 28 Rebroadcast uses O'Grady's name, likeness, or image for a newsworthy purpose or in an incidental manner.
19. Whether the use of O'Grady in advertisements and promotions for *Behind Enemy Lines* is "incidental" to the movie.
20. Whether the advertisements and promotions for *Behind Enemy Lines* are incidental to the airing of DCI's docu-drama about O'Grady.
21. Whether Defendants received a benefit from the use of O'Grady's name, likeness, or image.
22. Whether Defendants received value by tying the fictional movie *Behind Enemy Lines* to a real person and real-life event.
23. Whether O'Grady consented to Defendants' use of his name, likeness, or image in the November 28 Rebroadcast.
24. Whether Defendants contacted O'Grady regarding his participation in the November 28 Rebroadcast.

25. Whether the release O'Grady signed with the BBC granted BBC the right to use O'Grady's name, likeness, or image to endorse commercial products other than the BBC's own program.
26. What is the scope of the rights that DCI acquired from the BBC?
27. Whether the November 28 Rebroadcast delivers a false and misleading message.
28. Whether the November 28 Rebroadcast either deceived, or had the capacity to deceive, a substantial segment of potential customers.
29. Whether Defendants' deception is material.
30. Whether Defendants acted willfully, intentionally, and/or in bad faith when they created the November 28 Rebroadcast.
31. Whether O'Grady suffered injury as a result of Defendants' actions.
32. Whether Defendants' actions interfered with O'Grady's ability to conduct business.
33. Whether O'Grady is a competitor of Defendants.
34. Whether Defendants engaged in a conspiracy.
35. The value of O'Grady's name, likeness, image, and endorsement.
36. The amount of earnings or revenue Fox received from the movie *Behind Enemy Lines*.
37. The amount of profit Fox earned from the movie *Behind Enemy Lines*.
38. The amount of earnings or revenues Fox received from *Behind Enemy Lines* that are attributable to the events alleged in this lawsuit.
39. The amount of profit Fox earned from *Behind Enemy Lines* that is attributable to the events alleged in this lawsuit.
40. the amount of earnings that DCI received from the creation and airing of the November 28 version of *Behind Enemy Lines: the Scott O'Grady Story*
41. The amount of profit DCI earned from the creation and airing of the November 28 version of *Behind Enemy Lines: the Scott O'Grady Story*.
42. The amount of damages that should be awarded to O'Grady.

Defendants' Statements Regarding Contested Issues of Fact

It is the position of Twentieth Century Fox and Discovery that there are no contested issues of fact as set forth in Defendants' Motions for Summary Judgment, still pending.

Twentieth Century Fox and Discovery assert that the following facts are undisputed:

1. Plaintiff, Scott O'Grady, is a former United States Air Force fighter pilot who was shot down over Bosnia in 1995.
2. O'Grady evaded capture for six days and survived by drinking rainwater and eating insects.
3. Between June 2 and 8, 1995, the events involving O'Grady were "the dominant news story in the United States and indeed, throughout the world."
4. Four months after his rescue, in October 1995, O'Grady left full-time active duty and, since February 2001, has been on inactive reserve status.
5. Since 1996, O'Grady's primary occupation has been as a motivational speaker affiliated with the Washington Speakers Bureau, for which audiences are charged \$10,000 to \$15,000 per appearance.
6. O'Grady has co-authored two books about his experiences entitled Return with Honor and Basher 52, a book for young adults which is basically the same story as *Return with Honor*. O'Grady has also been the subject of other books, documentaries, and news stories.
7. Following his rescue, O'Grady participated in "many news conferences and interviews."
8. O'Grady was hosted by President Clinton at a White House luncheon.
9. O'Grady also agreed to be interviewed for a book about his rescue by author Mary Pat Kelly, who conducted taped conversations with O'Grady about his experiences. She included some of these conversations verbatim in the book *Good to Go*, published in 1996.
10. *Good to Go* used seven photographs of O'Grady, including his name and picture on the book's cover. The full title was "*Good to Go: The Rescue of Scott O'Grady From Bosnia*." One of the images used in the book was an artist's rendering of O'Grady's rescue scene which was commissioned by Sikorsky Aircraft Corporation and used as a promotional advertisement. O'Grady never sought compensation for the use of his photograph in the painting, nor did he complain to the artist or to Sikorsky Aircraft Corporation.
11. O'Grady did not receive any compensation with respect to *Good to Go*, and did not seek any.
12. O'Grady and Ms. Kelly discussed a movie deal regarding *Good to Go*, but it never came to fruition.

13. O'Grady also granted extensive interviews to The History Channel, which produced a one-hour special entitled: "Escape! Escape From Bosnia: The Scott O'Grady Story." O'Grady's name is used to advertise this product which is sold over the Internet. He never received compensation for this program.
14. O'Grady also accurately reported his experiences in military and "extensive" government debriefings following his rescue. He was aware of, but did not participate in, a Congressional investigation regarding the incident which resulted in a publicly available transcript detailing O'Grady's experiences and those of his rescuers. The Congressional Hearings were conducted between June 7, 1995 and September 25, 1996, in ten different sessions.
15. In addition, various agencies of the U.S. Government gave press briefings regarding O'Grady's experiences, and there were many documents posted on the Internet from participants in the events.
16. The numerous news articles, press conferences and hearings about O'Grady's downing and rescue in Bosnia include: Congressional hearings on June 7, 1995 and July 11, 1995; Department of Defense briefings including a News Briefing (on June 2, 1995), two News Briefings, a Press Advisory, and two News Releases (all on June 8, 1995); an Allied Forces Southern Europe News Release (on June 8, 1995); numerous newspaper articles, including those in the *Los Angeles Times*, *New York Times*, *New York Post*, *Washington Post*, the *Atlanta Journal-Constitution* and other major newspapers; lengthy magazine articles in *Time Magazine*, *Newsweek Magazine* and *U.S. News & World Report* in June, 1995; numerous television broadcasts on ABC, CBS, and NBC including a 45-minute broadcast on ABC's *Nightline* on June 8, 1995. O'Grady was not paid by any of these media organizations for the news coverage.
17. In 1996, O'Grady's literary agency, ICM, sold the rights to O'Grady's story, *Return with Honor*, for film and television to Orion Pictures Corporation, a movie studio, for \$250,000, for a five-year option on the rights to his book, plus another \$150,000, if the movie went into production, and \$50,000 to O'Grady as a consultant if the movie was made, plus a percentage of profits.
18. Although draft screenplays were written for that movie, the movie of *Return with Honor* was never made because the production company disbanded. The movie deal lapsed and, in January 2001, the movie rights to *Return with Honor* reverted to O'Grady. O'Grady kept the \$250,000 option fee.
19. Neither he nor his agents made any effort to sell the movie rights to his story after it was clear that Orion would not make a movie of O'Grady's story.
20. O'Grady is not aware of any other reason why that movie was not made. O'Grady specifically admits that he knows of no evidence suggesting that Fox Film had anything to do with Orion's decision not to make that movie.

21. If O'Grady wishes to make a movie with another company, he must reimburse Orion \$717,000, the amount of money Orion advanced to O'Grady and others in connection with the production, plus interest.
22. The working title for O'Grady's proposed movie was: *Return with Honor*.
23. One of the documentaries O'Grady appeared in was a documentary entitled *Missing in Action*, about O'Grady's experience in Bosnia between June 2 and June 8, 1995, created and produced by the British Broadcasting Corporation (the "BBC") ("BBC Documentary").
24. A year after he was rescued, in June 1996, O'Grady gave an extended on-camera interview for the BBC Documentary, for which \$500 was paid by the BBC. He also posed for the BBC Documentary in an F-16, the plane he flew when he was shot down.
25. O'Grady's father, Dr. William O'Grady, and O'Grady's sister, Stacy O'Grady, an aspiring actress, also gave on-camera interviews and participated in reenactment scenes for the BBC Documentary, recreating their experiences during the six days O'Grady was missing and their receipt of the news of his rescue.
26. O'Grady's father and sister were each paid \$75 for their participation in the BBC Documentary.
27. In addition, the BBC conducted on-camera interviews of O'Grady's fellow pilots and several of the Marines who participated in his rescue and their commanding officer.
28. An actor also reenacted O'Grady's six days in Bosnia.
29. The U.S. military cooperated with the BBC in the filming of several scenes in the BBC Documentary.
30. O'Grady did not ask to approve the BBC Documentary or any title for the Documentary prior to its being broadcast. Nor did he, or his father or sister, place any express restrictions on where it could be broadcast.
31. The payment of \$500 by the BBC was made pursuant to a 1996 agreement executed between the BBC and O'Grady (the "BBC/O'Grady Release").
32. O'Grady's father and sister also signed releases with the BBC relating to the BBC Documentary.
33. The BBC Documentary was referred to in the BBC/O'Grady Releases as *999 Special*.
34. In the BBC/O'Grady Releases, O'Grady and his father and sister relinquished any rights they had in their interviews and participation in the BBC Documentary and granted the

BBC and its licensees and assigns the right to broadcast the Documentary anywhere in the world.

35. The BBC/O'Grady Releases say that the BBC and "its licensees and assigns" shall be entitled to "ALL RIGHTS" in the material O'Grady and his family contributed to the BBC Documentary "without limitation." "FOR ALL PURPOSES EVERYWHERE" including, but not limited to, "all television . . . pay cable television and basic cable television" rights.
36. The BBC/O'Grady Release granted, in the case of educational programs, the right "to adapt and modify and make other use of any material and scripts supplied by [O'Grady and his family] for promotional and/or educational and/or demonstration purposes.
37. The executed releases provided that BBC and BBC Worldwide Limited and their licensees and assigns could, without further payment, broadcast extracts from O'Grady and his family's contributions to the BBC Documentary for trailers for use for promotion of the BBC Documentary. Trailers are tune-ins for television programs or previews for movies.
38. O'Grady and his family agreed that the BBC and its licensees "shall be entitled to edit the contributions(s)" to the BBC Documentary of O'Grady and his family.
39. The BBC/O'Grady Releases also allowed the BBC and "its licensees and assigns," such as Discovery Communications, Inc. ("Discovery"), to adapt or modify the program and said that the "program titles and the date and time" of its broadcast could be "changed at the discretion of the BBC."
40. The BBC/O'Grady Release O'Grady signed in 1996 "establishes the scope of rights O'Grady granted to the BBC."
41. In the BBC/O'Grady Release, O'Grady also gave up the right to complain about the editorial treatment of the BBC Documentary and, in fact, he never did complain to the BBC.
42. The BBC Documentary was licensed to Discovery.
43. Discovery's rights in the Documentary are governed by the terms of a series of agreements, beginning with the BBC/O'Grady Release.
44. Discovery is a non-fiction cable network which operates 12 channels, including Discovery Channel, TLC (The Learning Channel), Animal Planet, Discovery Health, Travel Channel, Discovery Times, Discovery Kids, Science Channel, Home & Leisure, Discovery Wings, Discovery en Español, and HD Theater.
45. Discovery paid \$100,000 for the license to broadcast the Documentary.

46. After purchasing the license to the BBC Documentary in 1997, Discovery changed the title from *Missing in Action* to *Behind Enemy Lines: The Scott O'Grady Story*.
47. Otherwise, Discovery made no editorial change to the BBC Documentary other than to cut some footage to allow for commercial breaks.
48. Discovery had the right to re-title and edit the BBC Documentary and to use portions of the Documentary for promotions under the licenses from the BBC.
49. Between mid-1997 and 2001, Discovery broadcast the documentary in the United States under the title *Behind Enemy Lines: The Scott O'Grady Story* (the "Discovery Documentary" or the "Documentary") over 30 times.
50. O'Grady was aware that Discovery aired the Discovery Documentary in the United States under the title *Behind Enemy Lines: The Scott O'Grady Story*, and never objected or complained about Discovery's broadcast of the Documentary or choice of that title in the 4 ½ years it aired before November 2001.
51. A letter "From the desk of Scott O'Grady," bearing O'Grady's signature, dated June 10, 1997, eight days after the Documentary first aired on the Discovery Channel, addressed to Sally Dyas, the BBC Researcher and Assistant Producer who worked on the BBC Documentary, says: " 'MISSING IN ACTION' is a hit! Everyone I have spoken with has made a comment on how well it was done. I am very pleased with the results. Thank you for all your hard work. I hope you are doing [well]. CONGRATULATIONS." (emphasis in the original.)
52. O'Grady's family and military colleagues wrote letters to Sally Dyas of the BBC praising the Documentary.
53. O'Grady's promotional web page and marketing materials for the Washington Speakers Bureau, O'Grady's agent for speaking engagements, refer to the Discovery Documentary repeatedly.
54. Defendant Twentieth Century Fox Film Corporation ("Twentieth Century Fox") produced a movie, entitled *Behind Enemy Lines*, which is a work of fiction about an American pilot who was shot down over Bosnia (the "Movie"). The Movie was filmed in the Czech Republic.
55. The title *Behind Enemy Lines* has been used in more than 30 books, movies and other literary works beginning in 1946 and continuing to this date.
56. Some of the books and movies that have used the title are: "*Behind Enemy Lines: Heroic Missions of WWIF*" (1998 Moviecraft Inc. documentary); "*Behind Enemy Lines*" starring Robert Patrick (1988 Eastern Film Management Corporation movie); "*Fortress Europe - Behind Enemy Lines on D-Day*" (International Historic Films, Inc. documentary); "*Behind Enemy Lines*" starring Thomas Ian Griffith (Orion home video

movie); "*Recon Marine – Behind Enemy Lines*" (Tully Entertainment movie); "*Behind Enemy Lines*" from "*Escape Stories: Amazing Tales of Wartime Escapes*" (2003 Discovery Communications, Inc. documentary); "*Behind Enemy Lines: The True Story of a French Jewish Spy in Nazi Germany*" by Marthe Cohn, Wendy Holden (2002 Harmony Books); "*Road to Baghdad: Behind Enemy Lines: The Adventure of an American Soldier in the Gulf War*" by Martin Stanton (2003 Presidio Press book); "*Commandos Behind Enemy Lines*" (Interactive Video); "*Behind Enemy Lines*" (Computer Game on CD); "*SPYS/Behind Enemy Lines*" (Music CD) "*Behind Enemy Lines – Civil War Spies, Raiders, and Guerillas*" by Wilmer L. Jones (2003 Taylor Publishing Book); "*Behind Enemy Lines*" by Cindy Dees (2002 Silhouette book); "*Behind Enemy Lines*" A Field Manual for God's Army by Chuck Dean (1997 WordSmith Publishing book)

57. The original script for the Movie was conceived by John Davis in 1995 and was titled *Behind Enemy Lines*. The idea for the Movie was inspired by Scott O'Grady's experiences being downed and rescued in Bosnia.
58. O'Grady's hard cover book, published in 1995, *Return With Honor*, did not contain the phrase "Behind Enemy Lines" in the title or anywhere in the text of the book.
59. O'Grady's paperback book, published in 1997, added an overline to the title which stated: "An American Fighter Pilot's Heroic Tale of Survival Behind Enemy Lines."
60. O'Grady has no registered copyright for the overline: "An American Fighter Pilot's Heroic Tale of Survival Behind Enemy Lines."
61. O'Grady's literary agent recognized that there is no protected right in a title when she was confronted with a complaint from a Vietnam Veteran and former POW who was a pilot shot down behind enemy lines and who authored a book titled "*Return with Honor*," the same title later used by O'Grady for his book.
62. O'Grady's book publisher responded to the complaint about use of the title *Return With Honor* by stating: "It is well established that titles are not entitled to copyright protection.
63. O'Grady does not claim copyright or trademark protection for the title: *Behind Enemy Lines*.
64. The Movie was prompted by Twentieth Century Fox's desire to make a movie that could be loosely based on the events that Twentieth Century Fox and the independent film producer, John Davis, and others had seen on the news, that being a pilot who was shot down, Scott O'Grady.
65. Mr. Davis retained Jim and John Thomas to write a script, which Mr. Davis received in 1995. The script was originally titled "Behind Enemy Lines."

66. The Movie's director, John Moore, was interested in making a movie about the Bosnian civil wars and about the lack of European intervention, the subsequent ethnic cleansing and the massacre in Srebrenica.
67. The script of the Movie went through several revisions and was presented to John Moore in September 1999.
68. The script, as finally approved, has similarities to O'Grady's real life experiences, but "the script of the [Twentieth Century] Fox movie is not Captain O'Grady's actual story."
69. The similarities between the Movie and O'Grady's life story are: (i) an American fighter pilot shot down by a surface to air missile; (ii) while on a peace-keeping mission over Bosnia; (iii) who must eject from an exploding aircraft and float down in broad daylight behind enemy lines; (iv) who must hide from armed Bosnian Serbs searching for the pilot for several days; (v) radio communications between the rescuers and the pilot play an important role; (vi) Marine rescuers launch off a Navy ship to rescue him in daylight; and (vii) enemy forces fire upon the helicopters as they carry the pilot to safety.
70. All of the above-claimed similarities were available in the public record shortly after the incident in contemporaneous news articles, press conferences conducted by the U.S. government and NATO, and public documents such as the Congressional Record.
71. In addition to the well-documented details of O'Grady's situation, two other airmen were shot down over Bosnia, one evaded capture for several days and both were rescued in a similar way. One rescue (of a British pilot on April 16, 1994) preceded O'Grady's and the other (of an American pilot on March 27, 1999) post-dated it.
72. In a 1999 news broadcast titled "Behind Enemy Lines," ABC News reported on the American pilot (not O'Grady) shot down over Bosnia who ejected from his plane and evaded Serbian forces before he was rescued by helicopter. The name of the American pilot shot down and rescued in 1999 was David Goldfein. The American pilot – "Hammer 34" – "bailed out of his crippled jet fighter and was prone in a pitch-black, thickly wooded area trying to conceal his whereabouts from Serbian troops," according to the American Forces Information Service. "Hammer 34, who... was later plucked out of enemy territory in a daring pre-dawn rescue effort."
73. While the Movie shares these common, publicly-available, factual elements with O'Grady's experience, it also was a work of fiction, the product of the Twentieth Century Fox creative process. In fact, the main themes and subplots of the Movie move beyond O'Grady's experiences because in the Movie, unlike real life, the lead character is initially disenchanted with the military but, by the end of the Movie, has changed his mind. The theatrical work also raises a conflict over the desire to save one person (the pilot), as advocated by the U.S. military officer played by actor Gene Hackman, against the concern that the rescue effort would endanger the entire peace process, a view held by a French NATO officer (Hackman's superior) who refused to authorize the rescue. The Movie also had several sub-plots: the consequences of disobeying orders in an effort to

save an American soldier, and the heroic efforts of the character played by Owen Wilson, to retrieve surveillance film showing Serbian atrocities. None of these creative conflicts were present in O'Grady's life story. Nor did O'Grady experience the many action scenes portrayed by the Owen Wilson character.

74. The Movie was made with the cooperation of the U.S. military. The U.S. Department of Defense and the U.S. Navy reviewed the script and commented on it extensively, providing detailed factual information.
75. Originally, Twentieth Century Fox scheduled the release of *Behind Enemy Lines* for early in the year 2002.
76. After September 11, 2001, Twentieth Century Fox decided to move up the release date of its Movie to November 30, 2001.
77. Like many other television networks, the Discovery Channel regularly runs special programming events in conjunction with the release of new movies by motion picture studios. When a motion picture studio has made a substantial commitment to buy advertising space on the network, the Discovery Channel often will broadcast an evening, composed of one or more hours of documentaries or other factual programming, on topics thematically-related to the movie. The evening usually includes additional educational material as well as a sneak preview, behind-the-scenes footage from the movie and interviews with the stars and production personnel from the movie, usually taken from the studio's electronic press kit that the studio distributes to hundreds of media outlets.
78. In the Fall of 2001, when Discovery learned about Twentieth Century Fox's upcoming movie *Behind Enemy Lines*, Discovery submitted a proposal to Twentieth Century Fox for a special programming event involving Twentieth Century Fox's Movie. From its files of military-related factual programming, Discovery selected the Documentary for the proposed special programming event.
79. In its proposal to Twentieth Century Fox, Discovery noted the similarity of the stories between the Movie and the Documentary, both about downed American pilots in Bosnia rescued by the Marines, both having *Behind Enemy Lines* in their title, but with the Documentary bearing the tag: *The Scott O'Grady Story*.
80. Twentieth Century Fox had already bought \$275,000 of advertising time on the Discovery Channel to run advertisements created by Twentieth Century Fox for the Movie ("Twentieth Century Fox-Created Advertisements"). Twentieth Century Fox gave approval to the special programming event and agreed to purchase an additional \$125,000 in air time for Twentieth Century Fox-Created Advertisements for the Movie to broadcast on the Discovery Channel over the course of several weeks.

81. Discovery and Twentieth Century Fox agreed that Discovery would air the Discovery Documentary twice on the night of November 28, 2001, two days before the opening weekend for Twentieth Century Fox's Movie ("the November 28 Broadcast").
82. Twentieth Century Fox advertised the Movie on the Discovery Channel to reach its target audience (males between the ages of 18 and 49) because the Discovery Channel's viewers are predominantly male. The Discovery Channel guaranteed Twentieth Century Fox 25.5 million predominantly male viewers between ages 18 and 49. This was Twentieth Century Fox's target audience for the Movie and the core audience of the Discovery Channel.
83. Twentieth Century Fox spent approximately \$400,000 to air Twentieth Century Fox-Created Advertisements for the Movie on the Discovery Channel over a period of several weeks.
84. Only \$125,000, or about one-third, of that money was spent on advertising attributable to the one-time special programming event.
85. Only two Twentieth Century Fox-Created Advertisements aired on November 28, 2001 in conjunction with the Discovery Documentary.
86. Twentieth Century Fox did not pay for the air time for the special programming event and did not pay the production costs associated with it.
87. Twentieth Century Fox's total advertising budget for the Movie was \$30 to \$40 million.
88. The total \$125,000 Twentieth Century Fox spent to air Twentieth Century Fox-Created Advertisements for the Movie attributable to the special programming event represents .313% to .417% of Twentieth Century Fox's \$30 to \$40 million total advertising budget for the Movie.
89. In connection with the special programming event, the Discovery Channel also agreed to produce and air new material to insert into the breaks in the Discovery Documentary known as "Interstitials." The Discovery Channel also produced material encouraging viewers to watch the special programming event, known as "Tune-Ins." The Interstitials and Tune-ins described the Discovery Documentary and the Movie and added new educational, scientific and historical information.
90. The Interstitials consisted of the opening introduction, elements called "bump-ins" leading from the program into advertising, and "bump-outs" leading from the advertising back into the programming, and "a sneak peak" of the Movie. The Interstitials included, in part, material provided by Twentieth Century Fox as part of its "electronic press kit" of interviews with the actors and trailers from the Movie which were edited by Discovery. Additional elements of the Interstitials included "factoids," which were educational elements, about pilots, the aircraft carrier U.S.S. *Carl Vinson* used in the Movie, survival training and the nutritional value of eating bugs and leaves.

91. Discovery paid \$27,065 in production costs for the Interstitials and Tune-ins.
92. Twentieth Century Fox reviewed the Interstitials and Tune-Ins and approved the material created for the special programming event.
93. A "Tune-In," or "promo," is created from material from the program that is being promoted. Tune-Ins are intended to encourage viewers to watch the program and are typically aired "one to two weeks prior to the event." Here, the Tune-Ins showed clips for the Discovery Documentary and stated that the November 28, 2001 airing would be sponsored by the Movie.
94. Tune-ins for the November 28, 2001 special programming event began airing on the Discovery Channel on Wednesday, November 21, 2001, the week before the special programming event.
95. The Discovery Channel aired the special programming event twice, broadcasting the Discovery Documentary on November 28, 2001 at 8:00 p.m. EST and at 12:00 a.m. EST.
96. The November 28, 2001 special programming event as aired included the Discovery Documentary, the Interstitials, Twentieth Century Fox-Created Advertisements for the Movie, promotions for other Discovery programming, and advertisements for products unrelated to the Movie, such as PetSmart, Kay Jewelers and Dell Computers.
97. The text of the opening of the special programming event starts with scenes from the Movie and then signals the viewer the segue to the Discovery Documentary from the Movie by using the tag line "before you cross the line in theaters" accompanied by the flash of the Discovery Channel logo. The text then says "how did America respond to the real thing?" This is followed by "The Discovery Channel remembers one hero's true story," text, accompanied by images from the Discovery Documentary. The opening also includes President Clinton in contemporaneous news footage from the time referring to O'Grady. The opening further states:

Plus, we'll take a behind the scenes look and get a sneak peek at Twentieth Century Fox's new film "Behind Enemy Lines," a detailed look at the fact and fiction of true survival.

Accompanying the words "the fact" is an image of the actor recreating O'Grady's ordeal in the Documentary. The visual accompanying "the fiction" is an image of the Movie's character Chris Burnett, played by actor Owen Wilson.
98. The Discovery Documentary had aired many times before to diminishing audiences.
99. The Documentary was updated with "factoids." One factoid stated: "Like Scott O'Grady," Owen Wilson's character, naval aviator Chris Burnett, runs into some challenges once his plane is down." The challenge is shown – Wilson's character evading capture trying to convince Bosnian villagers that he is their friend, not foe.

O'Grady himself did not encounter any Bosnians. His "major challenge" and the subject of the factoid: "finding food for survival . . . Just how safe are tree leaves, bugs and rainwater? The nutritional facts when we return to *Behind Enemy Lines: The Scott O'Grady Story* on the Discovery Channel." The factoid answers its own question with information about the iron, vitamins, protein and carbohydrates of insects and the importance of water to maintain the body. Another factoid was about U.S. military survival training such as O'Grady would have received, and a third referenced the fact that the U.S.S. *Carl Vinson*, the aircraft carrier used in the Movie, was also engaged in the conflict in Afghanistan in 2001.

100. Scientific, educational information is content of interest to the core Discovery Channel viewer and is consistent with promoting the Discovery Channel brand and its fact-based programming.
101. During the special programming event, the Discovery Channel logo appeared throughout the Discovery Documentary in the lower right-hand corner of the screen.
102. The portions of the Interstitials promoting the Discovery Documentary were introduced or cued by the display of a larger logo for the Discovery Channel.
103. Flashes of light appeared between each promotion for Twentieth Century Fox's Movie and the promotion for Discovery's Documentary.
104. The Movie's title, *Behind Enemy Lines*, was shown in the November 28, 2001 Broadcast in light blue in a block lettering style.
105. The Discovery Documentary's title, *Behind Enemy Lines: The Scott O'Grady Story*, was shown in gold and white with two white stars and a Times Roman style font.
106. One voice, who at the time read all of Discovery's scripts and was the voice of Discovery, narrated the Tune-ins, the Interstitials, including the references to the Movie and the Discovery Documentary, as well as tune-ins for other upcoming programs on the Discovery Channel.
107. None of the Twentieth Century Fox-Created Advertisements or promotions for the Movie on the Discovery Channel or elsewhere used Plaintiff's name or likeness.
108. Neither the Twentieth Century Fox-Created Advertisements for the Movie nor the Tune-Ins nor Interstitials aired on the Discovery Channel expressly state that O'Grady authorized or endorsed the Movie.
109. Neither the Twentieth Century Fox-Created Advertisements for the Movie nor the Tune-Ins nor the Interstitials expressly state that the Movie is O'Grady's actual story.
110. The Challenged Material, consisting of (1) the Twentieth Century Fox-Created Advertisements for the Movie aired during the November 28 special programming event,

(2) the Interstitials, and (3) the Tune-Ins, is the only "advertising" of the Movie that is complained of in Plaintiff's First Amended Complaint.

111. Discovery attempted to contact O'Grady by calling his agent for speaking engagements at the Washington Speakers Bureau to see if he would be willing to host or participate in the November 28, 2001 special programming event before it aired.
112. Discovery was told that O'Grady's schedule conflicted.
113. Had Discovery used a host for the special programming event, Discovery would have paid the host between zero and \$7,500, the range Discovery typically pays scientists or persons with relevant knowledge who host or participate in special programming events.
114. The November 28, 2001 special programming event failed to deliver the audience The Discovery Channel had guaranteed to Twentieth Century Fox, adults, particularly males, age 18 to 49, by over 4 million.
115. Because of this underdelivery, the Discovery Channel gave Twentieth Century Fox free advertising for its subsequent advertising campaign for Twentieth Century Fox's movie *Ice Age*, which ran during another Discovery Channel special programming event called *Engineering the Impossible*.
116. The value of the free advertising Discovery gave Twentieth Century Fox to make up for the underdelivery was \$27,112.
117. Because of the free advertising Discovery had to give Twentieth Century Fox and the production costs of the event, Discovery's estimated profit from the special programming event was approximately \$70,823.
118. O'Grady attended a screening of the Movie on November 26, 2001.
119. O'Grady participated in media coverage regarding the Movie, including appearances on the nationally-syndicated television programs *Hot Ticket* and *Entertainment Tonight*, and through interviews with the print media.
120. O'Grady taped appearances appearing on *Hot Ticket* on November 26, 2001 and on *ET* on December 1, 2001. He was paid \$1,200 for his appearance on *Hot Ticket*.
121. O'Grady saw a videotape of the November 28 Broadcast on the Discovery Channel within a few days of its airing.
122. O'Grady never asked the producers of *Hot Ticket* or *ET* to remove or retract his endorsement of the Movie.

123. On October 22, 2001, a representative of Fox Television Studios ("Fox Television") sent O'Grady a letter inquiring whether O'Grady would be interested in a "Film for Television."
124. There were communications between Fox Television and O'Grady, but the project never materialized because O'Grady seemed uninterested.
125. O'Grady concedes that he is not aware of any offers made to him by Fox Television nor is he sure if he would have accepted any offer if made.
126. No discussions were held between Twentieth Century Fox and Fox Television relating to the made-for-television movie offer proposed by Fox Television to O'Grady.
127. Twentieth Century Fox created an Electronic Press Kit to promote the Movie.
128. The Electronic Press Kit did not use O'Grady's name or likeness.
129. Twentieth Century Fox also shot film at the premiere of the Movie at the Naval Air Station in San Diego.
130. The footage from the premiere was used to promote the Movie and contained footage of the crowd consisting of mostly military personnel cheering when the Movie came on. O'Grady's name and/or likeness was not used.
131. Twentieth Century Fox shot promotional film on the U.S.S. *Nimitz* which consisted of interviews with Owen Wilson. O'Grady's name and/or likeness was not used.
132. Twentieth Century Fox promoted the Movie on the Fox Cable Channel with 30 second vignettes, which aired 50 times per day, beginning two weeks before the premiere. None of the vignettes used O'Grady's name or likeness.
133. Twentieth Century Fox promoted the Movie by sponsoring NASCAR events with vignettes, logos, on air promotions, billboards, race promos, all on NBC and TNT. None of the promotions used O'Grady's name or likeness.
134. Twentieth Century Fox promoted the Movie on the Fox Cable News Channel, Fox owned and operated television stations, and the Fox Television Network. Neither O'Grady's name nor his likeness was used in any of these promotions.
135. In the view of O'Grady's various agents for speaking and endorsements, as well as O'Grady's expert on the value of his life rights, the Discovery Documentary would be helpful to his speaking and endorsement career.
136. The number of speaking engagements and hence the total of his fees has increased to a total of approximately \$650,000 in the year 2002, an increase of over \$150,000 since the release of the Movie and the November 28 Broadcast.

137. No one cancelled any speaking engagements due to the November 28 Broadcast.
138. O'Grady also has had agents in connection with endorsement opportunities. O'Grady has earned at most \$15,000 from endorsements since the events in 1995 that brought him to public attention.
139. O'Grady anticipated this litigation on November 28, 2001.
140. O'Grady filed this lawsuit on August 19, 2002.
141. O'Grady does not contest Twentieth Century Fox's right to make the Movie.
142. O'Grady does not contest Twentieth Century Fox's right to make a fictional movie inspired by O'Grady's story.
143. O'Grady does not contest that Discovery had the right to air a factual program describing O'Grady's experience in Bosnia.
144. O'Grady concedes that the First Amendment protects advertisement of movies and documentaries.
145. O'Grady does not contest Discovery's right to use his name or likeness and portions of his interview in promotions and advertisements encouraging viewers to watch the Documentary.
146. O'Grady does not challenge the right of the BBC or Discovery, as it licensee, to broadcast the Documentary.
147. O'Grady does not challenge and is making no claim as to the 32 broadcasts of the Discovery Documentary prior to its broadcast on November 28, 2001.
148. O'Grady does not challenge Discovery's right to broadcast the Discovery Documentary on November 28, 2001.
149. O'Grady also does not challenge the right of Discovery to seek advertising to air along with the Discovery Documentary.
150. O'Grady does not challenge the content or the title in the Discovery Documentary.
151. O'Grady is only challenging the November 28 Broadcast with the Challenged Material aired on the Discovery Channel.

Plaintiffs' and Defendants' Joint Statement Regarding Contested Issues of Law

1. Whether the November 28, 2001 version of *Behind Enemy Lines: the Scott O'Grady Story* is commercial speech.
2. Whether and to what extent the First Amendment extends protection for protected works to the promotions for those First Amendment protected works.
3. Whether the November 28, 2001 broadcast of *Behind Enemy Lines: the Scott O'Grady Story* is promotion of protected First Amendment speech.
4. Whether the First Amendment protects Defendants against liability for the actions alleged by O'Grady.
5. Whether Fox is liable for misappropriation.
6. Whether Discovery is liable for misappropriation.
7. Whether the use of Plaintiff in the November 28 Rebroadcast was for a commercial purpose or whether he was used for newsworthy or educational purposes.
8. Whether O'Grady consented to Defendants' use of O'Grady for the November 28 broadcast of *Behind Enemy Lines: the Scott O'Grady Story*.
9. What is the scope of Discovery's rights in the documentary *Missing in Action*?
10. Whether Twentieth Century Fox is liable for false advertising of the Movie under the Lanham Act.
11. Whether Discovery is liable for false advertising of the Movie under the Lanham Act.
12. Whether Twentieth Century Fox is liable for false endorsement of the Movie under the Lanham Act.
13. Whether Discovery is liable for false endorsement of the Movie under the Lanham Act.
14. Whether Twentieth Century Fox is liable for unfair competition.
15. Whether Discovery is liable for unfair competition.
16. Whether Twentieth Century Fox and Discovery engaged in a civil conspiracy based upon the actions alleged in this lawsuit.
17. Whether O'Grady is entitled to recover the Fox's profits that are attributable to the conduct alleged in this lawsuit.
18. Whether O'Grady is entitled to recover the Discovery's profits that are attributable to the conduct alleged in this lawsuit.

19. Whether O'Grady is entitled to an award of treble damages under the Lanham Act.
20. Whether O'Grady is entitled to recovery of exemplary damages.
21. Whether O'Grady should be awarded recovery of his attorneys' fees and costs incurred in prosecuting this lawsuit under the Lanham Act.
22. Whether Twentieth Century Fox should be awarded recovery of its attorneys' fees and costs incurred in defending this lawsuit under the Lanham Act.
23. Whether Discovery should be awarded recovery of its attorneys' fees and costs incurred in defending this lawsuit under the Lanham Act.
24. Whether O'Grady should be entitled to recover both for the value he would have received for his name, likeness, and endorsement under his commercial misappropriation and unfair competition claims and for Twentieth Century Fox's and Discovery's profits under the Lanham Act from that use.

G. LIST OF WITNESSES

Plaintiff's Witnesses

Plaintiff Scott O'Grady will call the following witnesses at trial:

1. Scott O'Grady
2. Gabriel M. Gelb
3. Philip J. Hacker
4. Mark A. Roesler
5. Robert Alan Anderson
6. Patrick Byers
7. Mary Clare Baquet
8. John A. Davis
9. Michelle Marks
10. Beth R. (Luterman) McClinton
11. Jeffrey Godsick
12. Thomas C. Grane
13. John Richard Moore
14. Drew Nielson
15. Julie Nielson
16. Joseph H. Parker
17. Robert Parsons
18. Kelly Patterson
19. Eric Poticha
20. Tom Rothman

O'Grady may call the following witnesses at trial:

1. Corinne Blankenship
2. Allen Silva
3. Diane Cairns
4. Charles Louis Corzine
5. Stacy Dietschak
6. Bill Flanagan
7. David Grant
8. Mary Pat Kelly
9. Thomas R. Mills
10. Esther Newberg
11. Dr. William O'Grady
12. Mary Lou Scardapane
13. Steven Mark Siskind
14. To the extent deemed necessary by the Court in this action, George E. Bowles of Locke Liddell & Sapp LLP, and G. William Lavendar of Lavendar Law will testify as to Plaintiff's attorneys' fees incurred in this matter.

O'Grady may use the following deposition excerpts at trial:

1. Patrick Byers, July 11, 2003
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Page 10, Line 11-18
Page 11, Line 12-17
Page 13, Line 10 to Page 14, Line 7
Page 17, Line 16 to Page 19, Line 16
Page 20, Line 23 to Page 21, Line 15
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2. Michelle Marks, May 19, 2003
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Page 27, Line 1-25
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3. Bill Flanagan, July 11, 2003
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Page 50, Line 19 to Page 51, Line 7
4. Mary Clare Baquet, May 7, 2003
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5. Kelly Patterson, May 1, 2003
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6. Tom Rothman, May 20, 2003
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7. John A. Davis, May 21, 2003
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8. John Richard Moore, May 22, 2003
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9. Robert Alan Anderson, May 7, 2003

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10. Joseph H. Parker, May 15, 2003

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11. Julie Nielsen, July 22, 2003
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12. Drew Nielsen, July 22, 2003
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13. Jeffrey Godsick, March 18, 2003
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14. Tom Grane, March 19, 2003
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15. Eric Poticha, March 17, 2003
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16. Beth Mcclinton, March 19, 2003
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O'Grady's designations above are of those witnesses he may call in his case in chief. O'Grady reserves the right to call any witness previously disclosed by the parties and to use any deposition transcript taken in this case for rebuttal or impeachment purposes.

Defendant Twentieth Century Fox's List of Witnesses

- **Will be called to testify at trial**

John A. Davis

Joseph H. Parker

Neill W. Freeman

Herbert "Pete" Lyon

Philip Johnson

Alan Goedde

- **May be called to testify at trial**

Michelle Marks

Beth McClinton

Capt. David Kennedy, USN., Ret.

Colonel David L. Goldfein, USAF

Charles L. Babcock, Esq.

George L. McWilliams, Esq.

Custodian of Records, HarperCollins

Custodian of Records, Washington Speakers Bureau

Custodian of Records, Hot Ticket

Custodian of Records, BBC Worldwide Americas

Custodian of Records, Bantam Books

Custodian of Records, Dallas Theological Seminary

Custodian of Records, DoubleDay

Custodian of Records, Bender/Helper Impact

Custodian of Records, Metro-Goldwyn-Mayer Studios, Inc.

Custodian of Records, Naval Institute Press

Custodian of Records, Track Record Entertainment

Custodian of Records, Davis Entertainment

- **May be presented by deposition testimony at trial**

Diane Cairns

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Jeffrey Godsick

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Thomas C. Grane

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Mary Pat Kelly

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Thomas R. Mills

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Esther Newberg

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Robert Parsons

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Steve Siskind

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Twentieth Century Fox reserves the right to call any witness previously disclosed by the parties and to use any deposition transcript taken in this case for rebuttal or impeachment purposes.

Defendant Discovery Communications, Inc.'s List of Witnesses

♣ Will be called to testify at trial

Scott O'Grady

Kelly Patterson

Robert Alan Anderson

Daniel Stanton

Sally Dyas

Franklin R. Johnson

Roger L. Armstrong

Phillip Johnson

♣ **May be called to testify**

Mary Clare Baquet

Vernon G. Chu, Esq.

Mike Quattrone

Michelle Marks

John A. Davis

Beth R. (Luterman) McClinton

Joseph H. Parker

Laura R. Handman

Victor F. Hlavinka

Alan Goedde

Herbert "Pete" Lyon

Custodian of Records, HarperCollins

Custodian of Records, Washington Speakers Bureau

Custodian of Records, Hot Ticket

Custodian of Records, BBC Worldwide Americas, Inc.

Custodian of Records, BBC

Custodian of Records, Bantam Books

Custodian of Records, DoubleDay

Custodian of Records, Metro-Goldwyn-Mayer Studios, Inc.

Custodian of Records, Naval Institute Press

Custodian of Records, Track Record Entertainment

♣ **May be presented by deposition testimony at trial**

Mary Clare Baquet

7:12-13
9:12-21
14:24-25
16:2-11
16:16-17:16
18:15-23
20:3-11
22:2-6
29:7-15
31:24-33:19
39:78-40:17
51:14-52:12
54:3-9
57:18-59:15
78:1-79:7
80:14-23
81:21-82:21
85:18-86:9
86:14-15
89:10-18

Diane Cairns

8:21-23
13:13-14:7
23:3-6
29:8-15
35:9-14
36:10-20
38:20-23
39:7-10
47:8-20

49:4-15
50:13-16
50:24-51:1
51:6-11
51:15-17
52:6
54:2-4
54:15-23
56:3-57:2
57:17-58:1
58:4
59:1-4
64:19-65:8

Charles "Chaz" Corzine

6:20-7:3
7:10-7:20
23:4-20
24:7-13
50:8-51:12
64:16-65:4

John Davis

6:13-14
6:21-24
11:1-12:7
20:9-24:5
25:4-24
26:13-14
28:13-25
29:9-24

Stacy O'Grady Dietschak

7:11-13
23:4-6
38:20-39:10
40:13-17
42:13-17
51:3-16
51:24-52:4
55:13-19
56:10-57:4
60:11-15

62:16-23
63:22-64:5
64:10-65:6
67:12-14
67:19-22
68:3-5
68:12-69:20
70:19-71:11
71:20-72:12
76:13-22
77:11-78:4
79:18-80:17
91:25-93:18
97:16-20
100:23-101:16
101:23-25
105:5-107:1

Jeffrey Godsick

7:2-6
8:15-24
9:18-10:5
10:14-23
11:22-12:12
19:13-16
20:23-21:5
21:20-22:4
47:3-50:3
50:14-21
56:11-57:17

Thomas Grane

6:10-12
8:1-6
10:9-11:10
11:25-12:3
12:22-13:4
20:11-25
29:20-31:10
33:4-9

Michelle Marks

6:12-13

6:17-19
11:3-21
12:1-21
33:19-38:18
43:9-15
58:3-7
59:4-17
62:20-63:14
64:6-15
65:2-9
65:16-24
68:12-23
69:22-71:8
88:22-89:14

Thomas Mills

7:23-8:13
13:19-14:10
33:19-35:9
37:3-16
44:5-12
46:9-48:4
52:13-56:3
59:8-60:7
60:20-23
60:24-61:16
77:11-21
78:2-14
79:1-80:6
81:21-83:12
84:14-85:23
88:3-13
88:19-90:6
94:16-95:2
95:23-96:5
97:20-98:15
103:3-19
104:23-105:4
107:23-108:5
114:9-22
115:21-117:14
132:14-133:9
137:20-24

Esther Newberg

5:14-18
14:22-25
15:8-11 and 18-22
16:11-21
18:7-14
23:18-21
24:12-25:8

Dr. William O'Grady

4:2-4:6
7:21-9:15
10:21-12:13
15:19-17:18
22:7-10
29:13-30:2

Joseph "Hutch" Parker

6:12-21
18:12-19:16
21:5-21
58:9-60:2

Robert Parsons

8:2-14
12:1-6
13:15-22
18:15-19:4
21:19-22:21
27:7-16
30:7-13
31:13-32:3
32:13-33:18
34:15-35:4
35:13-36:8
36:21-38:6
55:12-21
72:9-18
74:3-10
75:1-11
75:13-14
77:6-17
87:1-17

89:9-12
102:6-103:2

Tom Rothman

7:18-20
8:7-13
24:23-25:3
49:11-50:10

Mary Lou Scardapane

6:8-12
25:1-26:3
55:3-56:10

Steven Siskind

8:2-12
12:6-14
15:8-15
17:22-18:6
20:14 - 22:20
24:19-27:1
27:22-28:6
28:18-29:18
33:24-34:23
35:8-21
38:2-15

Discovery reserves the right to call any witness previously disclosed by the parties and to use any deposition transcript taken in this case for rebuttal or impeachment purposes.

H. LIST OF EXHIBITS

Plaintiff's Exhibits

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
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TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
1.		Videotape: November 28, 2001 broadcast with advertisements AND Letter dated June 3, 2003 to George Bowles from Constance Pendleton, enclosing the Videotape bates labeled DCI 335 of the November 28, 2001 broadcast with advertisements [DCI 335]
2.	335A	Transcript of the November 28, 2001 broadcast
3.	3	O'Grady Deposition Exhibit No. 3 Hard Cover Book: Return with Honor by Captain Scott O'Grady with Jeff Coplon
4.	4	O'Grady Deposition Exhibit No. 4 Paperback Book: Return with Honor by Captain Scott O'Grady with Jeff Coplon
5.	5	O'Grady Deposition Exhibit No. 5 Book: Basher Five-Two by Captain Scott O'Grady with Michael French
6.	11	O'Grady Deposition Exhibit No. 11 Transcript of Hot Ticket #1011, March 15, 2002
7.	18	O'Grady Deposition Exhibit No. 18 Term Sheet for the Agreement dated January 22, 1996 between Orion Pictures Corporation and Scott O'Grady with respect to the development/production of a motion picture based upon the book "Return with Honor" [SOG 003211-3216]
8.	19	O'Grady Deposition Exhibit No. 19 Letter dated August 21, 2001 to Scott O'Grady from Justin Alvarado Brown (Orion Pictures Corp.), cc: Mary Biebel, Luba Keske, Legal Files, confirming that pursuant to Paragraph 9 of the Term Sheet dated as of January 22, 1996 between Scott O'Grady and Orion, all of OPC's rights acquired under the Agreement in and to the book "Return With Honor" written by you reverted to you as of January 22, 2001. [SOG 003219-3220]

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
9.	21	O'Grady Deposition Exhibit No. 21 Standard AFTRA Engagement Contract for Single Television Broadcast and for Multiple Television Broadcasts within one calendar week, between Scott O'Grady c/o Tom Mills with Track Record Entertainment and Paramount Pictures dated November 26, 2001 [SOG 003391-3393]
10.	22	O'Grady Deposition Exhibit No. 22 Entertainment Tonight Clip – Behind Enemy Lines dated December 21, 2001 – Interview with Captain Scott O'Grady
11.	29	O'Grady Deposition Exhibit No. 29 Letter dated October 22, 2001 from Eric Poticha/Fox Television Studios to Scott O'Grady expressing interest in developing life story into film for television [SOG 003185]
12.	31	O'Grady Deposition Exhibit No. 31 Letter dated March 6, 2002 from Beth Luterman to Scott O'Grady re participating in publicity activities [SOG 003199]
13.	33	O'Grady Deposition Exhibit No. 33 Letter dated March 15, 2002 from Dorrit Ragossine/Fox to Chaz Corzine w/ outline of PR activities [SOG 004911]
14.	34	O'Grady Deposition Exhibit No. 34 Letter dated March 26, 2002 from Dorrit Ragossine to Chaz Corzine w/ further details on PR activities, attaching news release [SOG 003208-3210]
15.	36	O'Grady Deposition Exhibit No. 36 Letter dated February 21, 2002 from Melisa Gotto to Scott O'Grady re his availability to participate in publicity activities [SOG 004827]
16.	37	O'Grady Deposition Exhibit No. 37 Video – Entertainment Tonight dated December 21, 2001 [SOG 005218]

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
17.		Transcript of the videotape of Entertainment Tonight, December 21, 2001 (from the video SOG 5218)
18.	48	O'Grady Deposition Exhibit No. 48 The Discovery Channel – Telecast History for Behind Enemy Lines [DCI 000152]
19.	56	O'Grady Deposition Exhibit No. 56 Behind Enemy Lines shooting draft, w/ handwritten note from ? [FOX 06428-6549]
20.	57	O'Grady Deposition Exhibit No. 57 Memo dated September 25, 2001 from Eric Poticha to Peter Liquori stating they are considering the true story of O'Grady [FOX 06402]
21.	58	O'Grady Deposition Exhibit No. 58 Email dated October 17, 2001 from Eric Poticha to David Grant re promotional ideas [FOX 06403]
22.	59	O'Grady Deposition Exhibit No. 59 Email dated October 19, 2001 from Eric Poticha to Jennifer Freeman re tracking down Scott O'Grady [FOX 06404]
23.	60	O'Grady Deposition Exhibit No. 60 Email dated October 23, 2001 from Eric Poticha to David Madden re Scott O'Grady's response to Poticha's proposal [FOX 06408]
24.	61	O'Grady Deposition Exhibit No. 61 Email dated October 24, 2001 from David Grant to Eric Poticha re call to Scott O'Grady [FOX 06409]
25.	62	O'Grady Deposition Exhibit No. 62 Email dated December 18, 2001 from Eric Poticha to David Grant and David Madden re Scott O'Grady and Chris-Rose Productions [FOX 06410]

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
26.	63	O'Grady Deposition Exhibit No. 63 Email dated December 18, 2001 from David Grant to David Madden and Eric Poticha re getting Scott O'Grady story [FOX 06411]
27.	64	O'Grady Deposition Exhibit No. 64 Email dated December 18, 2001 from David madden to David Grant and Eric Poticha re changing producers [FOX 06412]
28.	65	O'Grady Deposition Exhibit No. 65 Email dated December 18, 2001 from David Grant to David Madden and Eric Poticha re credits and responding to last email [FOX 06413]
29.	66	O'Grady Deposition Exhibit No. 66 Email dated December 18, 2001 from Eric Poticha to David Grant listing credits for producers [FOX 06414]
30.	67	O'Grady Deposition Exhibit No. 67 Email dated December 26, 2001 from David Grant to David Madden, Eric Poticha and Lisa Demberg re Oliver Gebel [FOX 06416]
31.	68	Godsick Deposition Exhibit No. 68 Memo dated July 7, 2000 [FOX 6131]
32.	69	Godsick Deposition Exhibit No. 69 Memo dated March 19, 2001 [FOX 6140]
33.	70	Godsick Deposition Exhibit No. 70 Memo dated 11/5/01 to Bob Harper from Michelle Marks, Steve Siskind, Leslie Henig, Jeffrey Godsick, re: News Corp "Wish List" Behind Enemy Lines [FOX 5331 – 5333]
34.	71	Godsick Deposition Exhibit No. 71 Letter dated November 5, 2001 [FOX 53191]
35.	72	Godsick Deposition Exhibit No. 72 E-Mail dated November 12, 2001 [FOX 6173]

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
36.	73	Godsick Deposition Exhibit No. 73 E-Mail dated November 15, 2001 [FOX 6178 – 6179]
37.	74	Godsick Deposition Exhibit No. 74 Document entitled, "Behind Enemy Lines Navy Premiere, Naval Air Station – North Island, Coronado, Saturday, November 17 th . [FOX 5533-5544]
38.	75	Godsick Deposition Exhibit No. 75 E-Mail dated 11/30/01 [FOX 504]
39.	78	Grane Deposition Exhibit No. 78 Handwritten note from Tom Grane to Bob attaching Owen Wilson Fox TV Host Script [FOX 03053-3055]
40.	79	Grane Deposition Exhibit No. 79 Email dated November 6, 2001 from Meredith Lipsky to April Florentino, Cathy Hodges, Field, Lisa Jenkinson, Marni Flans, NY Office re Behind Enemy Lines junket [FOX 00135-00136]
41.	80	Grane Deposition Exhibit No. 80 Emails dated September 3, 2002 between Robert Alan Anderson and Kelly Patterson re gathering materials for Behind Enemy Lines special vignettes [DCI 27-28]
42.	81	McClinton Deposition Exhibit No. 81 Email dated February 5, 2002 from Beth Luterman to Anna Dodd re locating Scott O'Grady [FOX 03280]
43.	82	McClinton Deposition Exhibit No. 82 Email dated February 8, 2002 from Melisa Gotto to Beth Luterman and Shari Rosenblum attaching revised plan for PR activities [FOX 02599-2609]
44.	83	McClinton Deposition Exhibit No. 83 Email dated February 4, 2002 from Melisa Gotto to Beth Luterman and Shari Rosenblum attaching plan for PR activities [FOX 02572-2582]

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
45.	84	McClinton Deposition Exhibit No. 84 Email dated February 20, 2002 from Beth Luterman to Melisa Gotto advising that Owen Wilson is unavailable; wanting Scot O'Grady [BHI 000001]
46.	85	McClinton Deposition Exhibit No. 85 Email dated February 27, 2002 from Steve Feldstein to Beth Luterman attaching email considering using Scott O'Grady [FOX 00850-851]
47.	86	McClinton Deposition Exhibit No. 86 Email dated February 27, 2002 from Beth Luterman to Brenda Ciccone, Melisa Gotto, Nan Rohr and Shawna Lynch re OK to move forward with Scott O'Grady [BHI 00007]
48.	87	McClinton Deposition Exhibit No. 87 Email dated February 27, 2002 from Melisa Gotto to Shari Rosenblum and Beth Luterman attaching Behind Enemy Lines consumer release [FOX 02617-2621]
49.	88	McClinton Deposition Exhibit No. 88 Email dated March 1, 2002 from Melisa Gogtto to Beth Luterman, Shari Rosenblum, Brenda Ciccone, Nan Rohr, Deborah Peters, Gina Sangeorge and Khadine Kubal re call from Washington Speakers Bureau w/ attached information re O'Grady from internet [FOX 02801-2803]
50.	89	McClinton Deposition Exhibit No. 89 Email dated March 5, 2002 from Melisa Gotto to Beth Luterman and Shari Rosenblum re payment to Scott O'Grady [FOX 02804-2805]
51.	90	McClinton Deposition Exhibit No. 90 Email dated March 5, 2002 from Beth Luterman to Melisa Gotto and Shari Rosenblum re payment to Scott O'Grady [BHI 00002]

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
68.	107	Patterson Deposition Exhibit No. 107 Emails dated November 15, 2001 between Robert Alan Anderson and Kelly Patterson re Behind Enemy Lines – naming of the night [DCI 000024]
69.	108	Patterson Deposition Exhibit No. 108 Email dated November 15, 2001 from Michelle Marks to Robert Anderson approving script for promo [DCI 000025]
70.	110	Patterson Deposition Exhibit No. 110 Emails dated November 20, 2001 between Robert Alan Anderson, Michelle Marks and Kelly Patterson re vignettes [DCI 000022-23]
71.	111	Patterson Deposition Exhibit No. 111 Emails dated November 28, 2001 between Robert Alan Anderson, Kelly Patterson, Michelle Marks re final mixes and comp reel [DCI 000019-20]
72.	113	Patterson Deposition Exhibit No. 113 Bump outs and bump ins [DCI 00001-12]
73.	114	Patterson Deposition Exhibit No. 114 Videotape entitled, "Scott O'Grady, Behind Enemy Lines, Compilation Reel, 11/28/01" [DCI 285]
74.	116	Patterson Deposition Exhibit No. 116 The Discovery Channel Telecast History - June 1, 1997 – November 28, 2001 [DCI 000152]
75.	117	Patterson Deposition Exhibit No. 117 Powerpoint presentation – Behind Enemy Lines [DCI 000079-82]
76.	118	Patterson Deposition Exhibit No. 118 Interstitial Value – BEL – November 28, 2001 Discovery Channel [DCI 000284]
77.	119	Patterson Deposition Exhibit No. 119 Chart/Report re November 28, 2001 Discovery Channel Program re Behind Enemy Lines [DCI 000283]

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
78.	121	Patterson Deposition Exhibit No. 121 Discovery Channel Demographic Detail Report Broadcast 4 th Quarter 2001 (Deal S-21) [DCI 000267-278]
79.	122	Patterson Deposition Exhibit No. 122 Discovery Channel Demographic Detail Report Broadcast 4 th Quarter 2001 (Deal S-22) [DCI 000259-266]
80.	126	Patterson Deposition Exhibit No. 126 Letter dated November 6, 2001 from Christa Catanoso to Jenny Rhoades re DSC 4Q01 Scatter Agreement for Behind Enemy Lines w/ attached flow charts, spreadsheets and deal summaries [DCI 000136-150]
81.	135	Parson Deposition Exhibit No. 135 Speaking Engagements for Calendar Year 2000 for Scott O'Grady [WSB 00017]
82.	136	Parson Deposition Exhibit No. 136 Speaking Engagements for Calendar Year 2001 for Scott O'Grady [WSB 00018-19]
83.	137	Parson Deposition Exhibit No. 137 Speaking Engagements for Calendar Year 2002 for Scott O'Grady [WSB 00020]
84.	142	Parson Deposition Exhibit No. 142 Scott O'Grady's Engagements with Religious Organizations (1999-2003) [WSB 00016]
85.	143	Parson Deposition Exhibit No. 143 Washington Speakers Bureau – List of Most Requested Speakers [WSB 00012]
86.	144	Parson Deposition Exhibit No. 144 Washington Speakers Bureau Brochure re Scott O'Grady (from WSB Website) [WSB 00006]
87.	147	Parson Deposition Exhibit No. 147 Washington Speakers Bureau general information sheet re Scott O'Grady [WSB 00007]

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
88.	152	Anderson Deposition Exhibit No. 152 Programme Complete for BBC 999 Special [DCI 000176 – 252]
89.	153	Baquet Deposition Exhibit No. 153 Email dated October 23, 2001 @6:17 am to Kelly Patterson from Mary Baquet, cc: Marc Goodman, re: BEL [DCI 000036]
90.	180	Mills Deposition Exhibit No. 180 Various letters from Tom Mills to Scott O'Grady [TRI 00001-7]
91.	201	Parker Deposition Exhibit No. 201 Memo dated January 28, 2000 from Emma Watts to Tom Rothman and Hutch Parker re David Veloz draft [FOX 06914-06916]
92.	204	Parker Deposition Exhibit No. 204 Memo dated May 15, 2001 from Emma Watts to John Moore re notes on BEL – 5/8/01 director's cut [FOX 06710-06712]
93.	205	Parker Deposition Exhibit No. 205 Memo dated May 24, 2001 from Emma Watts to John Moore re notes on BEL - 5/21/01 directors cut [FOX 06811-06813]
94.	206	Parker Deposition Exhibit No. 206 Note dated 6/13/01 from Emma to Hutch attaching Zak's BEL notes [FOX 06822-06826]
95.	207	Parker Deposition Exhibit No. 207 Fax transmittal dated June 27, 2001 to Bob Harper w/ attached memo from Ted Gagliano to John Moore and Martin Smith re MPAA notes on BEL [FOX 03179-03181]
96.	208	Parker Deposition Exhibit No. 208 September 6, 2001 National Research Group Recruited Audience Survey, w/ attached memo dated September 7, 2001 from Anne Robison to Jim Gianopulos, et al transmitting survey [FOX 03256-03274]

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
97.	209	Parker Deposition Exhibit No. 209 Survey sheet/questionnaire [FOX 06851-06852]
98.	210	Parker Deposition Exhibit No. 210 Memo dated September 10, 2001 from Tom, Hutch and Emma to John Moore re Notes on BEL preview 09/06/01 [FOX 06804-06807]
99.	211	Parker Deposition Exhibit No. 211 Memo dated September 20, 1002 from Tom, Hutch and Emma to John Moore re notes on BEL preview 09/06/01 [FOX 06800-06803]
100.	212	Parker Deposition Exhibit No. 212 October 23, 2001 National Research Group Recruited Audience Survey, w/ attached memo dated October 24, 2001 from Ray Ydoyaga to Jim Gianopulos, et al transmitting survey [FOX 03235]
101.	213	Parker Deposition Exhibit No. 213 Press release dated November 15, 2001 – “Fox to Host Premiere Screening of Behind Enemy Lines at Naval Air State North Island, in San Diego” [FOX 00165]
102.	214	Parker Deposition Exhibit No. 214 Fax transmittal dated October 25, 2001 to Hutch Parker re BEL LMPAA attaching letter from Ted Gagliano to Joan Graves re re- screening [FOX 06629-06630]
103.	215	Parker Deposition Exhibit No. 215 Memo dated November 30, 2001 from Peter Lozito to Allison Kramer and Flo Grace attaching newspaper article mentioning BEL [FOX 06621-06622]
104.	216	Parker Deposition Exhibit No. 216 Memo dated November 21, 2001 from Clifton Tibbetts to Jim Gianopulos, Tom Rothman re Pre-released estimates – BEL [FOX 06618-06620]

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
105.	217	Parker Deposition Exhibit No. 217 Memo dated October 29, 2001 from Tom, Hutch and Emma to John Moore re ADR and caption notes on BEL preview 10/23/01 [FOX 06626]
106.	220	Marks Deposition Exhibit No. 220 Email dated November 5, 2001 from Michelle Marks, et al to Bob Harper re News Corp "Wish List" BEL [FOX 05331-05333]
107.	222	Marks Deposition Exhibit No. 222 Emails between Robert-Alan Anderson and Kelly Patterson dated September 6, 2002 re BEL – Naming of the Night [DCI 000024-000025]
108.	224	Marks Deposition Exhibit No. 224 Email dated November 30, 2001 from Bob Harper to Aaron Miller, et al, congratulating marketing department on job well done [FOX 00504]
109.	225	Marks Deposition Exhibit No. 225 Agenda/schedule of November 17, 2001 Navy Premiere [FOX 05533-05544]
110.	226	Marks Deposition Exhibit No. 226 National Promotions Wrap Up Report – Media Promotions and Third Party Marketing Strategies [FOX 07194-07258]
111.	251	Rothman Deposition Exhibit No. 251 Article from Daily Variety dated November 12, 1996 re BEL – Scott O'Grady story [FOX 06226-06227]
112.	257	Rothman Deposition Exhibit No. 257 National Research Group – Recruited Audience Survey dated September 6, 2001, w/ attached memo from Anne Robison to Jim Gianopulos, et al transmitting report/survey [FOX 03256-03274]

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
113.	258	Rothman Deposition Exhibit No. 258 Email dated November 1, 2001 from Branden Miller to Bruce Snyder and Tom Rothman re impending date change and trailer placement [FOX 06163]
114.	259	Rothman Deposition Exhibit No. 259 Email dated November 5, 2001 from Tom Rothman to Scott Sherman re BEL [FOX 06167]
115.	264	Rothman Deposition Exhibit No. 264 Email dated November 21, 2001 from Tom Rothman to Scott Sherman re Hollywood Variety article [FOX 06188-06189]
116.	266	Rothman Deposition Exhibit No. 266 Memo dated November 21, 2001 from Clifton Tibbetts to Jim Gianopulos and Tom Rothman re pre-release estimates – BEL, w/ attachment [FOX 06618-06620]
117.	267	Rothman Deposition Exhibit No. 267 Email dated November 28, 2001 from Tom Rothman re Newscorp BEL screening [FOX 06193]
118.	268	Rothman Deposition Exhibit No. 268 Email dated November 29, 2001 from Tom Rothman to Bill Tennis, et al re BEL movie review [FOX 06198]
119.	269	Rothman Deposition Exhibit No. 269 Email dated November 30, 2001 from Tom Rothman to Sam Harper re good comments on radio [FOX 06201]
120.	270	Rothman Deposition Exhibit No. 270 Email dated November 29, 2001 from Tom Rothman to John Balto re movie review [FOX 06200]
121.	271	Davis Deposition Exhibit No. 271 Letter dated October 22, 2001 from Eric Poticha to Scott O'Grady expressing interest in developing life story [SOG 003185]

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
122.	272	Davis Deposition Exhibit No. 272 Twentieth Century Fox Technical – Interviews with John Davis and Wyck Godfrey dated January 30, 2002 [FOX 00732-00803]
123.	273	Moore Deposition Exhibit No. 273 Broad Review of Script Development and Proposed Direction [DAVIS 00087-00091]
124.	274	Moore Deposition Exhibit No. 274 Fax transmittal dated January 14, 2000 from Jennifer Danska/Wyck Godfrey to Emma, w/ attached memo from John Davis and Wyck Godfrey to John Moore and David Veloz w/ concerns and suggestions re draft [FOX 06942-06943]
125.	275	Moore Deposition Exhibit No. 275 Memo dated May 15, 2000 from Wyck Godfrey to Zak Penn re BEL script changes [DAVIS 00020-00021]
126.	276	Moore Deposition Exhibit No. 276 Fax transmission dated September 21, 2000 from Stephanie Austin to Wyck Godfrey, attaching memo from Stephanie Austin to Jimmy Dodson, et al re BEL pre-shoots [DAVIS 00229-00250]
127.	280	Moore Deposition Exhibit No. 280 Newsweek article re BEL dated December 3, 2001 [FOX 00340-00343]
128.	283	Moore Deposition Exhibit No. 283 Fax transmittal dated March 15, 2002 from Dorrit Ragosine to Chaz Corzine with letter re PR activities for Scott O'Grady
129.	326	Gelb Deposition Exhibit No. 326 Expert Report of Gabriel M. Gelb
130.	Part of Ex. 326	Portion of Gelb Deposition Exhibit No. 326 - Resume of Gabriel M. Gelb
131.	356	Roesler Deposition Exhibit No. 356 Expert Opinion of Mark Roesler dated May 15, 2003
132.	Portion of Exhibit 356	Portion of Roesler Deposition Exhibit 356 - Curriculum Vitae of Mark Roesler

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
133.	358	Roesler Deposition Exhibit No. 358 § 7.03 "Celebrity Licensing" by Mark A. Roesler [ROESLER 00017-27]
134.	367	Roesler Deposition Exhibit No. 367 CMG Worldwide Client List printed from Internet Website
135.	375	Roesler Deposition Exhibit No. 375 Letter dated November 29, 1999 from Vernon Chu/BBC Worldwide to Victoria Williams/Discovery Communications enclosing execution copies of amendment to addendum for Discovery Channel Scott O'Grady program [DCI 00112-00123]
136.	388	Julie Nielsen Deposition Exhibit No. 388 Videotape
137.	389	Julie Nielsen Deposition Exhibit No. 389 Handwritten note dated December 6, 2001 from Julie Nielsen/Everett Golf & Country Club transmitting video about Discovery Channel's "Behind Enemy Lines" program
138.	392	Julie Nielsen Deposition Exhibit No. 392 Letter dated July 15, 2003 from Corinne Blankenship to Julie Nielsen enclosing tape of November 28, 2001 Discovery Channel broadcast of documentary
139.	394	Lyon Deposition Exhibit No. 394 Notice of Deposition of Herbert L. "Pete" Lyon
140.		Twentieth Century Fox Movie: Behind Enemy Lines [DVD & VHS]
141.		Transcript of the DVD Commentaries by Director John Moore and Editor Martin Smith [SOG 5516-5610]
142.	397	Lyon Deposition Exhibit No. 397 Herbert Lyon's Work Product Book One
143.	398	Lyon Deposition Exhibit No. 398 Letter dated July 17, 2003 to George Bowles from Nancy Hamilton, re: transmitting expert reports

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
144.	399	Lyon Deposition Exhibit No. 399 20 th Century Fox BEL Stunt Night Promotion Economic Profit Analysis dated April 30, 2003, total pretax profit \$102,140
145.	400	Lyon Deposition Exhibit No. 400 20th Century Fox Film-BEL Stunt Night Promotion Economic Profit Analysis, not dated, total pretax profit \$213,504
146.	401	Lyon Deposition Exhibit No. 401 Twentieth Century Fox-BEL Press Kit
147.	402	Lyon Deposition Exhibit No. 402 Google search for "Operation Deny Flight"
148.	403	Lyon Deposition Exhibit No. 403 Testimonial Letters [WSB 00072 – 00139]
149.	404	Lyon Deposition Exhibit No. 404 Entertainment Tonight December 21, 2001 Interview with Scott O'Grady - Transcription of Videotape [HCG 06286]
150.	405	Lyon Deposition Exhibit No. 405 Hot Ticket March 15, 2002 Interview with Scott O'Grady – Transcription of Videotape [HGG 06283 – 6285]
151.		Transcript of the DVD Commentaries by Producer John Davis and Wyck Godfrey [SOG 5611-5685]
152.	407	Blair Deposition Exhibit No. 407 Notice of Deposition of Edward A. Blair
153.	408	Blair Deposition Exhibit No. 408 Edward A. Blair Invoice for Expert Fee Services, \$20,670 dated July 1, 2003
154.		Letter dated April 30, 2003 to Lisa Hallerman (J. Friendly Productions, Inc.) from Steven Kaplan and attached participation statement for the period ended February 28, 2003 for Behind Enemy Lines [FOX 7194 - 7196]
155.	410	Blair Deposition Exhibit No. 410 Edward Blair's Analysis of Discovery Broadcast Demographic, Pl. Ex. 119, DCI 283

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
156.	411	Blair Deposition Exhibit No. 411 3000 Series Bosnia Questionnaires by Gelb Consulting Group, Inc. dated March 24, 2003 [GELB 195 – 359]
157.	448	Philip Johnson Deposition Exhibit No. 448 Letter and Notice of Deposition of Philip Johnson
158.		Gelb Deposition Exhibit No. 328 Combined Videotape of the November 28, 2001 Program
159.		Twentieth Century Fox Film Corporation Payment Summary, "Draft", [FOX 7182-7193]
160.	451	Philip Johnson Deposition Exhibit No. 451 Revised Analysis of Discovery Broadcast Demographic based on Depo. Ex. 119 (DCI 283)
161.	452	Freeman Deposition Exhibit No. 452 Notice of Deposition of Neill Freeman
162.		Videotape of Scott O'Grady "Behind Enemy Lines", Compilation Reel 11/28/01, [DCI 285]
163.	454	Freeman Deposition Exhibit No. 454 Invoices for Services by Neill Freeman, dated May 5, 2003; June 5, 2003; July 9, 2003 [FOX 07513 – 7529]
164.	455	Freeman Deposition Exhibit No. 455 June 12, 2000 Accounting by Producers of Distributor of Films (Statement of Position 00- 2) by American Institute of Certified Public Accountants
165.	456	Freeman Deposition Exhibit No. 456 SEC Form 10-K for Fox Entertainment Group, Inc. for the year ended June 30, 2002
166.		Declaration of Vernon G. Chu, Esq. And exhibits A-E
167.		Fox News Channel article dated August 4, 2003, entitled "Maker of Nutella Spread Ditches Kobe Bryant"
168.		Business Data for Behind Enemy Lines (2001) from the website, http://uk.imdb.com/title/tt0159273/business

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
169.		Memo dated Sept. 5, 2000 to Emma Watts from Stephanie Austin, re: Arkan/Time Setting with attached Behind Enemy Lines Arkan Back Story dated August 10, 2000 [DAVIS 00197 – 200]
170.		Summary of Twentieth Century Fox' Documents Regarding Screenplays for "Behind Enemy Lines" [SOG 5506-5512]
171.		All Screenplays produced and the following bates numbers [FOX 3683-5317, 1107-2372, 2816-2931, 2454-2560, 2373-2453, 5795-5929, 2937-2940, 5930-6123, 6428-6549]
172.		Summary of Twentieth Century Fox' Documents Regarding Writer Borrowing Agreements for "Behind Enemy Lines" [SOG 5513-5515]
173.		All Writer's Agreements produced and the following bates numbers [6392-6399, 3481-3555, 3459-3460, 3561-3632, 3633-3636, 3558-3560, 3646-3662, 3385-3456, 3356-3359, 3556-3557, 3367-3384, 3364-3366, 3360-3363, 3663-3677, 3638-3662, 3372-3384]
174.		Videotape: Missing in Action – A BBC 999 Special [SOG 5187]
175.		Recorded Answers of survey participants [GELB 195-1204]
176.		Gelb electronic data and transmittal letter to Cedric Scott from Stephen Wilson dated 7/31/03 [GELB 1208]
177.		Behind Enemy Lines National Promotions Wrap Up Report [FOX 7194-7258]
178.		Letters to actors and writers [FOX 7194-7207]
179.		Letter dated 11/12/01 to Jenny Rhoades from Christa Catanoso, re: DSC 4Q01 Scatter Agreement [DCI 000124-125]

TRIAL EXHIBIT NO.	Deposition Exhibit No.	Description
180.		20 th Century Fox Behind Enemy Lines and Discovery Channel's Post Buy Analysis 4Q01 Scatter [DCI 000286-295]
181.		Financial Report entitled , Behind Enemy Lines Spending in Ultimate [FOX 0003073]
182.		Interoffice Memo and Breaks and News Articles [FOX 00101-107]
183.		Digitized CD of: 1. Scott O'Grady "Behind Enemy Lines", Compilation Reel 11/28/01, DCI 285 2. Nov. 28, 2001 – Broadcast of DCI Documentary Behind Enemy Lines: The Scott O'Grady Story with ADS, DCI 335
184.		Gabe Gelb Documents [GELB 0001 – 1208]
185.		Disclaimer in Credits in the Twentieth Century Fox Movie of Behind Enemy Lines [DVD & VHS]
186.	115	Patterson Deposition Exhibit No. 115 Videotape entitled, "BEHIND ENEMY LINES Soundbites [DCI 157]
187.		Letter dated April 30, 2003 to John Forsey (Three Dog Day, Inc.) from Steven Kaplan with attached participation statement for the period ended February 28, 2003 for Behind Enemy Lines [FOX 7197-7198]
188.		Letter dated April 30, 2003 to Billy Rose (Point Road, Inc.) from Steven Kaplan with attached participation statement for the period ended February 28, 2003 for Behind Enemy Lines [FOX 7199-7205]
189.		Motion Picture Group Ultimates – FY 2002 Releases, April 2003 for Behind Enemy Lines [FOX 7206- 7207]

Scott O'Grady reserves the right to use as exhibits any documents that were marked as deposition exhibits following the date of this Trial Exhibit List or that are received from

the court reporter after the date of this Trial Exhibit List. Scott O'Grady also reserves the right to use as exhibits any documents that are produced after the date of its initial Trial Exhibit List. Scott O'Grady also reserves the right to use additional documents for rebuttal if necessary.

Defendant Twentieth Century Fox's Exhibits

A. Twentieth Century Fox Film Corporation Expects to Offer the Following Exhibits at Trial:

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
6	Collection of News Articles (MSJ Exhibit No. 6)				
6A	Collection of transcripts of television broadcasts regarding O'Grady Rescue (MSJ Exhibit No. 6A)				
6B	News releases and briefings by Government Agencies regarding O'Grady (MSJ Exhibit No. 6B)				
7	Video Stills from the DVD "Behind Enemy Lines" (O'Grady Deposition Exhibit No. 7)				
8	DVD of the Movie "Behind Enemy Lines" (O'Grady Deposition Exhibit No. 8 and MSJ Exhibit No. 8)				
8A	VHS of the Movie "Behind Enemy Lines" (MSJ Exhibit No. 8A)				
9	Transcript of the House National Security Committee Hearing 104-36 July 1995) (MSJ Exhibit No. 9)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
10	03/15/2002 - Videotape of <i>Hot Ticket</i> , March 15, 2002 Bates No. SOG 005179 (O'Grady Deposition Exhibit No. 10 and MSJ Exhibit No. 10)				
11A	Transcript of <i>Hot Ticket</i> (O'Grady Deposition Exhibit No. 11A and MSJ Exhibit No. 11A)				
12	Internet articles regarding other pilots shot down in Bosnia and later rescued (MSJ Exhibit No. 12)				
13	"Good to Go" <i>The Rescue of Scott O'Grady from Bosnia</i> by Mary Pat Kelly (O'Grady Deposition Exhibit No. 13 and MSJ Exhibit No. 13)				
14	DVD of Video News Clips from Vanderbilt News Archive (Exhibits Nos. 14.1 thru 14.21) (MSJ Exhibit No. 14)				
14A	Transcripts of Video News Clips from Vanderbilt News Archive (Exhibits Nos. 14.1A thru 14.21A) (MSJ Exhibits Nos. 14.1A thru 14.21A)				
14B	DVD of Video of ABC's <i>Nightline</i> at 11:30 p.m. on June 8, 1995 (MSJ Exhibit No. 14B)				
14C	Transcript of ABC's <i>Nightline</i> at 11:30 p.m. on June 8, 1995 (MSJ Exhibit No. 14C)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
15	07/18/1995 Letter Agreement Between Scott O'Grady and International Creative Management, Inc. (ICM) Bates Nos. SOG 003222 thru 3223 – Confidential (O'Grady Deposition Exhibit No. 15)				
17	December 2, 2001, <i>Spokane Spokesman Review</i> article and Etonline.com Celebrities Entertainment Tonight Online Interview of Scott O'Grady (MSJ Exhibit No. 17)				
18	01/22/1996 Term Sheet for the Agreement between Orion Pictures Corporation and Scott O'Grady Bates Nos. SOG 003211 thru 3216 Confidential (O'Grady Deposition Exhibit No. 18 and MSJ Exhibit No. 18)				
19	08/21/2001 Letter to Scott O'Grady from Justin Alvarado Brown of Orion Pictures Corporation Bates Nos. SOG 003219 thru 003220 Confidential (O'Grady Deposition Exhibit No. 19 and MSJ Exhibit 19)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
20	09/26/2001 Letter to Scott O'Grady from Justin Alvarado Brown of Orion Pictures Corporation Bates No. SOG 003221 Confidential (O'Grady Deposition Exhibit No. 20 and MSJ Exhibit No. 20)				
21	11/26/2001 Standard AFTRA Engagement Contract for Single Television Broadcast and For Multiple Television Broadcasts Within One Calendar Week between Scott O'Grady and Paramount Pictures Bates Nos. SOG 003391 thru 3393 – Confidential (O'Grady Deposition Exhibit No. 21 and MSJ Exhibit No. 21)				
23	Graphic – O'Grady Engagement Revenue (O'Grady Deposition Exhibit No. 23)				
24	Graphic – O'Grady Speaking Engagements (O'Grady Deposition Exhibit No. 24)				
33	03/15/2002 Letter to Chaz Corzine from Dorrit Ragosine Bates No. SOG 004911 – Confidential (O'Grady Deposition Exhibit No. 33) (Corzine Deposition Exhibit No. 283)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
34	03/26/2002 Letter to Chaz Corzine from Dorrit Ragosine Bates No. SOG 003208 - Confidential (Corzine Deposition Exhibit 34)				
37	Videotape entitled "Entertainment Tonight – 21 Dec 01" Bates No. SOG 5218 (O'Grady Deposition Exhibit No. 37 and MSJ Exhibit No. 37)				
37A	Transcript of December 21, 2001 <i>Entertainment Tonight</i> (Only that portion concerned with Scott O'Grady) (MSJ Exhibit No. 37A)				
38	01/07/2002 Facsimile to Scott O'Grady from Tom Mills of Track Record Enterprises attaching signed Letter Agreement Bates Nos. SOG 005061 – 5063 Confidential (O'Grady Deposition Exhibit No. 38)				
44	03/22/2002 Facsimile to Scott O'Grady from David Crockford of BBC South Contracts Department attaching copy of agreement signed by O'Grady for "999" series in 1996 Bates Nos. SOG 003188 thru 003191 – Confidential (O'Grady Deposition Exhibit No. 44 and MSJ Exhibit No. 44)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
45	05/14/1996 Agreement between British Broadcasting Corporation and Scott O'Grady and Memo from Anna Gol to Chris Stone And Draft to Lloyds Bank for \$500.00 Bates Nos. DCI 000083 thru 00086 (O'Grady Deposition Exhibit No. 45 and MSJ Exhibit No. 45)				
47	Dust Jacket of <i>The Public Burning</i> (MSJ Exhibit No. 47)				
48	The Discovery Channel Telecast History – Behind Enemy Lines: The Scott O'Grady Story Bates No. DCI 000152 (O'Grady Deposition Exhibit No. 48 and MSJ Exhibit No. 48)				
49	Washington Speakers Bureau brochure with Biographical information re Scott O'Grady Bates Nos. SOG 003379 thru SOG 003390 (O'Grady Deposition Exhibit No. 49 and MSJ Exhibit No. 49)				
55	Partial Script of November 28 Discovery Channel Broadcast of <i>Behind Enemy Lines – The Scott O'Grady Story</i> Bates Nos. DCI 000001 thru DCI 000012 (O'Grady Deposition Exhibit No. 55)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
116	<p>"The Discovery Telecast History, Behind Enemy Lines: The Scott O'Grady Story"</p> <p>Bates No. DCI 000152</p> <p>(Patterson Deposition Exhibit No. 116 and MSJ Exhibit No. 116)</p>				
117	<p>Document entitled "Behind Enemy Lines, 20th Century Fox Production</p> <p>Bates Nos. DCI 00079 – DCI 00082</p> <p>(Patterson Deposition Exhibit No. 117)</p>				
118	<p><i>Behind Enemy Lines</i> Interstitial Value</p> <p>Bates No. DCI 000284</p> <p>(Patterson Deposition Exhibit No. 118)</p>				
129	<p>10/2003/1995 - Term Sheet as of October 3, 1995 between Savoy Pictures and Scott O'Grady</p> <p>Bates Nos. ICM 010 – ICM 014</p> <p>(Cairns Deposition Exhibit No. 129)</p>				
133	<p>04/30/2003 Subpoena in a Civil Case for Robert Parsons and Notice of Oral and Videotaped Deposition of Robert Parsons</p> <p>(Parsons Deposition Exhibit No. 133)</p>				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
134	03/27/2000 Fax from Renata Thompson of the Washington Speakers Bureau, Inc. to Scott O'Grady with 1999 Speaking Engagements and fees SOG 004245 – SOG 004249 (Parsons Deposition Exhibit No. 134 and MSJ Exhibit No. 134)				
135	2000 - Chart – Speaking Engagements for Calendar Year 2000 for Scott O'Grady Bates No. WSB 00017 (Parsons Deposition Exhibit No. 135 and MSJ Exhibit No. 135)				
136	2001 - Chart – Speaking Engagements for Calendar Year 2001 for Scott O'Grady Bates Nos. WSB 00018 - 00019 (Parsons Deposition Exhibit No. 136 and MSJ Exhibit No. 136)				
137	2002 - Chart – Speaking Engagements for Calendar Year 2002 for Scott O'Grady Bates Nos. WSB 00020 - 00021 (Parsons Deposition Exhibit No. 137 and MSJ Exhibit No. 137)				
138	05/03/2002 Contract for Washington Speakers Bureau for Scott O'Grady Bates Nos. SOG 004803 - 004804 (Parsons Deposition Exhibit No. 138)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
140	03/13/2002 Contract for Washington Speakers Bureau for Scott O'Grady Bates Nos. SOG 004737 - 004738 (Parsons Deposition Exhibit No. 140)				
141	01/25/2002 Contract for Washington Speakers Bureau for Scott O'Grady Bates Nos. SOG 004759 - 004760 (Parsons Deposition Exhibit No. 141)				
142	1999 to 2003 - Chart - Scott O'Grady's Engagements with Religious Organizations (1999 - 2003) Bates No. WSB 00016 (Parsons Deposition Exhibit No. 142)				
143	02/27/2003 Internet Printout from Washington Speakers Bureau Website "Most Requested Speakers" Bates No. WSB 00012 (Parsons Deposition Exhibit No. 143)				
144	02/26/2003 Internet Printout from Washington Speakers Bureau Website re Scott O'Grady Bates No. WSB 00006 (Parsons Deposition Exhibit No. 144 and MSJ Exhibit No. 144)				
146	Invitation to Washington Speakers Bureau 2003 Spring Speakers Showcase Bates Nos. WSB 00058 - 00071 (Parsons Deposition Exhibit No. 146)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
148	2003 Washington Speakers Bureau Brochure Bates Nos. WSB 00033 – 00035 (Parsons Deposition Exhibit No. 148 and MSJ Exhibit No. 148)				
155	05/17/1996 Letter to Dr. O'Grady from Sally Dyas, Researcher (W. O'Grady Deposition Exhibit No. 155) Also Bates No. BBC 000373				
156	07/25/1996 Letter to Dr. O'Grady from Sally Dyas, Researcher (W. O'Grady Deposition Exhibit No. 156 and MSJ Exhibit No. 156) Also Bates No. BBC000374-357				
158	08/12/1996 Letter from Sally Dyas of BBC South to Dr. O'Grady Also Bates No. BBC 000376 (W. O'Grady Deposition Exhibit No. 158)				
159	08/27/1996 Letter from Sally Dyas, Researcher, BBC South to Dr. O'Grady (W. O'Grady Deposition Exhibit No. 159) Also Bates No. BBC 000377				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
160	00/00/2000 Book Proposal of <i>GOOD TO GO: The Planning, Search, and Rescue of Air Force Pilot Scott O'Grady in Bosnia</i> by Mary Pat Kelly Bates Nos. NIP 00001 - 00002 (M.P. Kelly Deposition Exhibit No. 160)				
163	Handwritten review of <i>Good to Go</i> by Mary Pat Kelly Bates Nos. NIP 00148 – 00149 (M.P. Kelly Deposition Exhibit No. 163)				
165	08/29/1996 Note from Susan Brook to Mary Pat Kelly enclosing photo of O'Grady Bates Nos. NIP 00164 - 00165 (M.P. Kelly Deposition Exhibit No. 165)				
175	01/04/1996 Letter to Alan Sokol from Diane Cairns Bates No. ICM 082 (E. Newberg Deposition Exhibit No. 175)				
176	11/27/1995 Letter to Esther Newberg from Bill Thomas enclosing Correspondence with Col. George Day Bates Nos. ICM 087 - 094 (Newberg Deposition Exhibit No. 176 and MSJ Exhibit No. 176)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
178	01/07/1997 Memorandum of Agreement Signed by Scott O'Grady and Tom Mills Bates Nos. SOG 005054 – 005055 (Mills Deposition Exhibit No. 178 and MSJ Exhibit No. 178)				
179	01/15/1998 Memorandum of Agreement Signed by Scott O'Grady and Tom Mills Bates Nos. SOG 005057 – 005058 (Mills Deposition Exhibit No. 179 and MSJ Exhibit No. 179)				
180	03/25/2002 Letters to and from Tom Mills and Scott O'Grady Bates Nos. TRE 00001 – 00007 (Mills Deposition Exhibit No. 180)				
181	04/2003/1997 Representation Agreement Signed by Scott O'Grady and David Barlow Bates No. SOG 005060 (Mills Deposition Exhibit No. 181 and MSJ Exhibit No. 181)				
182	05/19/1998 Letter to Tom Mills from Kay Ferguson Bates Nos. SOG 005069 – 005072 (Mills Deposition Exhibit No. 182 and MSJ Exhibit No. 182) (O'Grady Deposition Vol. II, Exhibit No. 311)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
185	01/15/1998 Letter from Tom Mills to Scott O'Grady Bates No. SOG 005056 (Mills Deposition Exhibit No. 185)				
186	02/11/1997 Memorandum of Agreement Bates No. SOG 005059 (Mills Deposition Exhibit No. 186)				
188	04/10/1997 Fax to Sally Dyas from Rebecca Child re Discovery Channel video "Missing in Action" (Mills Deposition Exhibit No. 188) (O'Grady Deposition Vol. II, Exhibit No. 298) Also Bates No. BBC 000371				
213	11/15/2001 Media Release – "Fox to Host Premiere Screening of <i>Behind Enemy Lines</i> at Naval Air Station North Island, In San Diego Bates No. FOX 00165 (Parker Deposition Exhibit No. 213)				
226	05/19/2003 National Promotion Wrap Up Report – Behind Enemy Lines Bates Nos. FOX 07194 – 07258 (Marks Deposition Exhibit No. 226)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
227	11/23/2001 New Hampshire 300 presented by Behind Enemy Lines Bates Nos. FOX 07259 – 07299 (Marks Deposition Exhibit No. 227)				
228	License Agreements between BBC and DCI Bates Nos. DCI 000112 through 123) (MSJ Exhibit No. 228)				
272	00/2000/2000 Twentieth Century Fox Technical Story Slug: Behind Enemy Lines: Producer's Commentary Bates Nos. FOX 00732 – FOX 00803 (Davis Deposition Exhibit No. 272)				
281	05/19/2003 Notice of Oral and Videotaped Deposition of Chaz Corzine (C. Corzine Deposition Exhibit No. 281)				
282	03/06/2002 Fax from Beth Luterman to Capt. Scottt O'Grady (C. Corzine Deposition Exhibit No. 282)				
288	02/29/1996 Letter to Captain Scott O'Grady from Sally Dyas (O'Grady Deposition Vol. II, Exhibit No. 288) Also Bates Nos. BBC 000356-357				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
289	08/2003/1995 Letter to Captain Scott O'Grady from Sally Dyas (O'Grady Deposition Vol. II, Exhibit No. 289) Also Bates Nos. BBC 000358-359				
290	03/26/1996 Letter to Captain Scott O'Grady from Sally Dyas (O'Grady Deposition Vol. II, Exhibit No. 290) Also Bate Nos. BBC 000360				
291	04/15/1996 Letter to Captain Scott O'Grady from Sally Dyas (O'Grady Deposition Vol. II, Exhibit No. 291) Also Bates No. BBC 000361				
292	04/18/1996 Letter to Scott O'Grady from Sally Dyas (O'Grady Deposition Vol. II, Exhibit No. 292) Also Bates No. BBC 000362				
293	06/27/1996 Letter to Scott O'Grady from Sally Dyas (O'Grady Deposition Vol. II, Exhibit No. 293) Also Bates Nos. BBC 000363-364				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
295	08/27/1996 Letter to Scott O'Grady from Sally Dyas (O'Grady Deposition Vol. II, Exhibit No. 295) Also Bates Nos. BBC 000367-368				
296	09/04/1996 Letter to Scott O'Grady c/o Rebecca Child from Sally Dyas (O'Grady Deposition Vol. II, Exhibit No. 296) Also Bates No. BBC 000369				
297	03/25/1997 Note to Scott O'Grady from Sally Dyas (O'Grady Deposition Vol. II, Exhibit No. 297) Also Bates no. BBC 000370				
299	06/10/1997 Fax from Scott O'Grady to Sally Dyas (O'Grady Deposition Vol. II, , Exhibit No. 299 and MSJ Exhibit No. 299) Also Bates No. BBC 000372				
301	06/05/2003 Internet Printout from Library of Congress Online Catalog (O'Grady Deposition Vol. II, Exhibit No. 301)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
304	06/10/2003 Internet Printout from Amazon.com showing results for: behind enemy lines (O'Grady Deposition Vol. II, Exhibit No. 304 and MSJ Exhibit No. 304)				
306	11/2002/1995 Letter to Jack Hoeft, President of Bantam-Doubleday from Co. George E. Day, Author of "Return with Honor" Bates No. ICM 094 (O'Grady Deposition Vol. II, Exhibit No. 3)				
307	11/08/1995 Letter to Colonel Day from Katherine Trager Bates Nos. ICM 090 – 092 (O'Grady Deposition Vol. II, Exhibit No. 307)				
308	11/20/1995 Letter to Katherine Trager from Col. George Day Bates Nos. ICM 088 – 089 (O'Grady Deposition Vol. II, Exhibit No. 308)				
313	03/11/2002 Fax from George Buston of FilmRoos to Scott O'Grady Bates Nos. SOG 004898 – 004899 (O'Grady Deposition Vol. II, Exhibit No. 313 and MSJ Exhibit No. 313)				
317	Video: "Escape! Escape from Bosnia – Scott O'Grady Story" (O'Grady Deposition Vol. II, Exhibit No. 317 and MSJ Exhibit No. 317)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
317A	Transcript of The History Channel Documentary "Escape! Escape from Bosnia: The Scott O'Grady Story" (MSJ Exhibit No. 317A)				
319	05/27/1997 United Artists Overview of Fourth Revision of "Return with Honor" Bates Nos. MGM 0115 – 0119 (O'Grady Deposition Vol. II, Exhibit No. 319)				
332	03/06/2002 Draft of Bosnia Questionnaire from Gelb Consulting Group, Inc. Bates Nos. GELB 032 – 036 (Gelb Deposition Exhibit No. 332)				
333	00/2000/2000 Copies of pages from Webster's Seventh New Collegiate Dictionary and Internet Printout from Yahoo Dictionary Bates Nos. (Gelb Deposition Exhibit No. 333)				
341	03/24/2003 Completed Bosnia Questionnaire from Gelb Consulting Group, Inc. Bates Nos. GELB 195 – 199; 215 – 219; 225 – 251; 264 – 269; 276 – 310; 316 – 318; 320 – 330; 336 – 344; 350 – 354; 380 – 395; 401 – 410; 416 – 420; 441 – 451; 458 – 463 (Gelb Deposition Exhibit No. 341)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
342	<p>03/24/2003 Completed Bosnia Questionnaire from Gelb Consulting Group, Inc.</p> <p>Bates Nos. GELB 669 – 673; 664 – 668; 654 – 658; 649 – 653; 644 – 648; 634 – 638; 629 – 633; 609 – 613; 604 – 608; 584 – 588; 579 – 583; 574 – 578; 564 – 568; 544 – 548; 534 – 538; 514 – 518; 509 – 513; 494 – 498; 484 – 488; 479 – 483</p> <p>(Gelb Deposition Exhibit No. 342)</p>				
343	<p>03/24/2003 Completed Bosnia Questionnaire from Gelb Consulting Group, Inc.</p> <p>Bates Nos. GELB 987 – 991; 1012 – 1016; 1022 – 1030; 1036 – 1040; 1046 – 1055; 1076 – 1080; 1086 – 1095; 1101 – 1115; 1131 – 1139; 1145 – 1149; 1170 – 1174; 1180 – 1184; 1200 – 1204</p> <p>(Gelb Deposition Exhibit No. 343)</p>				
358	<p>00/2000/2000 § 7.03 Celebrity Licensing of article written by Mark A. Roesler</p> <p>Bates Nos. ROESLER 000017 – 000027</p> <p>(Roesler Deposition Exhibit No. 358)</p>				
360	<p>00/2000/2000 Copy of § 10:19 – Exclusive Licenses from <i>Rights of Publicity and Privacy</i> by McCarthy</p> <p>Bates Nos. ROESLER 000015 – 000016</p> <p>(Roesler Deposition Exhibit No. 360)</p>				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
361	00/2000/2000 Various Excerpts from <i>Licensing Royalty Rates</i> by Gregory Battersby and Charles Grimes Bates Nos. ROESLER 000012 – 000014 (Roesler Deposition Exhibit No. 361)				
367	06/19/2003 Printout of CMG Worldwide Celebrity Client List from CMG Web Site (Roesler Deposition Exhibit No. 367)				
500	06/14/1995 <i>Time</i> magazine article entitled “All for One”				
501	<i>Primary Colors</i> by Anonymous				
502	<i>Primary Colors</i> (the movie)				
503	<i>Look Homeward, Angel</i> by Thomas Wolfe				
504	<i>Hell to Pay – The unfolding story of Hillary Rodham Clinton</i> by Barbara Olson				
505	<i>Living History</i> by Hillary Clinton				
506	<i>The Clinton Wars</i> by Sidney Blumenthal				
507	Declaration of Vernon Chu and Exhibits				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
508	09/25/1996 Co-Production Agreement between The British Broadcasting Corporation and BBC Worldwide Americas, Inc. (Exhibit A to the Declaration of Vernon Chu – Appendix II to MSJ)				
509	03/26/1997 Amendment to Co-Production Agreement between The British Broadcasting Corporation and BBC Worldwide Americas, Inc. (Exhibit B to the Declaration of Vernon Chu – Appendix II to MSJ)				
510	46 History Today 48 (1996) (MSJ Exhibit No. 24)				
511	Videotape entitled November 28, 2001 Broadcast of the Discovery Channel Documentary “Behind Enemy Lines: The Scott O’Grady Story” including all advertisements Bates No. DCI 00335 (MSJ Exhibit No. 335)				
512	Certified transcript of Videotape MSJ Exhibit No. 335				
513	Discovery Communications Website (MSJ Exhibit No. 336)				
514	Collection of news articles concerning DCI’s awards (MSJ Exhibit No. 337A)				
515	Collection of News Articles Concerning Discovery Channel’s programs (MSJ Exhibit No. 337B)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
516	Declaration of Susie Kunzle and exhibits				
517	5.11.03 Lives – “Behind Enemy Lines – What was left when the Iraqi Army retreated? “ from <i>The New York Times Magazine</i> dated 5/11/03				
518	05/15/2003 Letter to George Bowles from Philip J. Hacker Bates Nos. SOG 005229 -005231				
519	03/05/2003 Letter to George Bowles from Mark Roesler Bates No. SOG 005357				
520	02/06/2002 Letter to Jenny Rhoades from Christa Catanoso attaching MSA post buy analysis for 4 th quarter 2001 Bates nos. DCI 000126 – DCI 000135				
521	Discovery Channel Invoices and Affidavits to Fox Filmed Entertainment Bates Nos. FOX 07531 – 07553				
522	12/05/01 Email to Allison Kramer, et al from Peter Lozito Bates Nos. FOX 00390 – 00431				
523	Behind Enemy Lines Promotional Report – Midwest Region Bates Nos. FOX 00439 - 00479				
524	05/08/2003 Twentieth Century Fox Film Corporation Project Cost Report for 1/1/1900(?) – 7/1/2000 Bates Nos. FOX 07479 - 07511				
525	<i>Behind Enemy Lines</i> DVD Cover Bates No. Fox 01103				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
526	<i>Behind Enemy Lines</i> stills from the movie Bates Nos. FOX 01104 - 01106				
527	03/05/2002 Email to Beth Luterman, et al from Anna Dodd attaching summary of promotional activities 'wish list' Bates Nos. FOX 02628 - 02632				
528	<i>Behind Enemy Lines</i> tipsheet Bates Nos. FOX 05525 - 05526				
529	09/25/2000 Letter to Wyck Godfrey from Philip M. Strub, Special Assistant for Entertainment Media, Office of the Assistant Secretary of Defense Bates Nos. DAVIS 00320 - 00321				
530	Washington Speaker's Bureau 2001 Brochure for Scott O'Grady Bates Nos. WSB 00023 - 00027				
531	Videotape entitled <i>Wings: "Whispering Death"</i> Bates No. DCI 000336				
532	Appearance Release – SHE Productions signed by Scott O'Grady Bates No. DCI 000338				
533	07/29/2003 Email to Alan G. Goedde from Viewer Relations at A&E Bates No. Fox 07530				
534	03/25/1997 Letter to Dr. O'Grady from Sally Dyas, BBC (unsigned) Bates No. BBC 000158				
535	Electronic Press Kit Bates No. FOX 07554				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
536	08/21/02 Videotape Twentieth Century Home Entertainment "Behind Enemy Lines" 1. Home Video Trailer 2. "With Honor" 3. "With Honor" 4. "Combo Black Knight/Behind Enemy Lines" 5. "Combo Behind Enemy Lines/NASCAR "6 6. Behind Enemy Lines 7. "Action Ride-Sell Through" Bates No. FOX 01074				
537	Videotape Fox 11 Behind Enemy Lines (7 stories) Bates No. Fox 01079				
538	Videotape – Behind Enemy Lines – Owen Wilson – Fox Night Hosting Bates No. FOX 01076				
539	Videotape – Leach Entertainment, "Heroes America", Stereo !&2, Final Mixed, Viewing Copy Bates No. SOG 005110				
540	Curriculum Vitae of Neil Freeman				
541	Exhibits (Tabs 2 through 7) to the Expert Report of Neil Freeman				
542	Curriculum Vitae of Herbert Lyon				
543	Curriculum Vitae of Alan Goedde				
544	Curriculum Vitae of Philip Johnson				
545	Curriculum Vitae of Edward Blair				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
546	Appendix One to Expert Report of Edward A. Blair and Herbert L. Lyon				
547	04/30/2003 Letter to J. Friendly Productions, Inc. from Steven P. Kaplan Bates Nos. Fox 07300 – 07313 (Bates Nos. HCG 3965 – 03978)				
548	1996 Speaking Engagement Contracts – Scott O’Grady Bates Nos. SOG 003935 – SOG 004006 (Bates Nos. HCG 06549 – HCG 06619)				
549	1997 Speaking Engagement Contracts – Scott O’Grady Bates Nos. SOG 004007 – 004095 (Bates Nos. HCG 06620 – HCG 06705)				
550	1998 Speaking Engagement Contracts – Scott O’Grady Bates Nos. SOG 004098 – 004227 (Bates Nos. HCG 06706 – 06837)				
551	Financials related to <i>Behind Enemy Lines</i> Bates Nos. FOX 07478 – 07508 (HCG 06462 – 06493)				
552	05/05/2002 Letter to Scott O’Grady from John Page Bates No. SOG 003182 - 03183				
553	06/14/2002 Email from John Naber to Zuluf16 (Scott O’Grady) Bates No. SOG 003184				
554	Form 10-Q Fox Entertainment Group, Inc. Bates No. FEG 00001 - 00029				

B. Twentieth Century Fox Film Corporation May Offer the Following Exhibits at Trial:

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
76	Document entitled "Behind Enemy Lines, Spending in Ultimate" and attached documentation FOX 03073 - FOX 03178 (Bound under separate cover) (Siskind Deposition Exhibit No. 76)				
214	10/25/2001 Fax from Ted Gagliano to Hutch Parker Bates Nos. FOX 06629 – 06630 (Parker Deposition Exhibit No. 214)				
275	05/15/2000 Memo to Zak Penn from Wyck Godfrey Bates Nos. DAVIS 00020 – 00021 (Moore Deposition Exhibit No. 275)				
279	11/30/2001 Memo to Those Concerned from Carol Sewell Bates Nos. FOX 00038 – 00056 (Moore Deposition Exhibit No. 279)				
280	12/2003/2001 Article "Hollywood Goes to War" Bates Nos. FOX 00340 – 00343 (Moore Deposition Exhibit No. 280)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
294	08/21/1996 Handwritten note to Sally from Stacy (O'Grady Deposition Vol. II, Exhibit No. 294) Also Bates Nos. BBC 000365-366				
309	00/2000/2000 Handwritten Notes on Washington Speakers Bureau Paper Bates Nos. SOG 003935, 004007, 004098, 004099, 004380, 004381, 004486, 004634 (O'Grady Deposition Vol. II, Exhibit No. 309)				
312	03/09/2002 Email from auto-confirm@amazon.com to zuluf16@aol.com re purchase of "Escape from Bosnia: The Scott O'Grady Story-Escape!" VHS Bates Nos. SOG 003179 – 003181 (O'Grady Deposition Vol. II, Exhibit No. 312 and MSJ Exhibit No. 312)				
318	03/31/1997 Script of "Return with Honor" Fourth Revision Bates Nos. MGM 0001 – 0111 (O'Grady Deposition Vol. II, Exhibit No. 318)				
321	06/17/2003 Internet Printout from Hacker, Douglas, & Company of Article "Less Than Zero" Studio Accounting Practices in Hollywood Bates Nos. (Hacker Deposition Exhibit No. 321)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
323	05/13/2003 Chart: Comparison of Ultimates to Actuals @ 04/30/2003 Prepared by Fox Accounting Presented to Phil Hacker on 05/13/2003 Bates No. HACKER 00014 (Hacker Deposition Exhibit No. 323)				
324	05/15/2003 Letter from Philip Hacker to George Bowles Bates No. HACKER 000015 (Hacker Deposition Exhibit No. 324)				
327	02/04/2003 Letter to Gabriel Gelb from Peter Flynn Bates Nos. SOG 005259 – 005260 (Gelb Deposition Exhibit No. 327)				
329	03/31/2003; 04/30/2003; 06/16/2003 Invoices from Gabriel Gelb to C.W. Flynn Bates Nos. GELB 1205 - 1207 (Gelb Deposition Exhibit No. 329)				
330	02/12/2002 Draft of Bosnia Questionnaire from Gelb Consulting Group, Inc. Bates Nos. GELB 037 – 040 (Gelb Deposition Exhibit No. 330)				
334	06/06/2003 Email from C.W. Flynn to Scott Hastings re “3-6 revised Q” Bates Nos. SOG 005466 – 005471 (Gelb Deposition Exhibit No. 334)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
358	00/2000/2000 § 7.03 Celebrity Licensing Mark A. Roesler Bates Nos. ROESLER 000017 – 000027 (Roesler Deposition Exhibit No. 358)				
360	00/2000/2000 Copy of § 10:18 – Exclusive Licenses Bates Nos. ROESLER 000015 – 000016 (Roesler Deposition Exhibit No. 360)				
361	00/2000/2000 Various Excerpts from <i>Licensing Royalty Rates</i> by Gregory Battersby and Charles Grimes Bates Nos. ROESLER 000012 – 000014 (Roesler Deposition Exhibit No. 361)				
367	06/19/2003 Printout of CMG Worldwide Client List from CMG Web Site (Roesler Deposition Exhibit No. 367)				
372	09/26/2001 Letter from Justin Brown to Scott O'Grady re "Return with Honors" Bates No. ROESLER 000040 (Roesler Deposition Exhibit No. 372)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
600	09/09/1996 Addendum to License Agreement Dated October 7, 1993 between The Learning Channel, Inc. and BBC Worldwide Americas, Inc. (Exhibit D to the Declaration of Vernon Chu – Appendix II to MSJ)				
601	11/29/1999 Letter from BBC to Discovery Communications, Inc. attaching executed 09/09/1996 Addendum to License Agreement (Exhibit E to the Declaration of Vernon Chu – Appendix II to MSJ)				
602	Collection of News Articles Concerning Discovery Channel's programs (MSJ Exhibit No. 337B)				
603	Ann Hodges, "Discovery Channel Airs O'Grady's Documentary, " <i>The Houston Chronicle</i> , May 30, 1997 at 1 (MSJ Exhibit No. 338)				
604	Upcomingmovies.com website (MSJ Exhibit No. 339)				
605	Still from interstitial of title of Fox Movie, <i>Behind Enemy Lines</i> (MSJ Exhibit No. 340A)				
606	Stills from Documentary displaying Discovery Channel logo (MSJ Exhibit No. 340B)				

EX. NO.	DESCRIPTION	OFFER	OBJECT	DATE ADMIT	DATE N/ADMIT
607	Stills from Documentary displaying "Walking with Prehistoric Beasts" logo (MSJ Exhibit No. 340C)				
608	Still from interstitial displaying Discovery Channel Logo (MSJ Exhibit No. 340D)				
609	Still from interstitial displaying Documentary title, <i>Behind Enemy Lines: The Scott O'Grady Story</i> (MSJ Exhibit No. 340E)				
610	Still from interstitial displaying Fox logo (MSJ Exhibit No. 340F)				
611	Stills from opening interstitial (MSJ Exhibit No. 340G)				
612	Stills from factoid on nutritional facts from interstitial "Bump Out" (MSJ Exhibit No. 340H)				
613	Stills from factoid on U.S.S. <i>Carl Vinson</i> from interstitial "Bump Out" (MSJ Exhibit No. 340I)				
614	Transcription of Tape #1 – Coplon and O'Grady Bates Nos. SOG 000001 – SOG 000101				
615	10/12/2003 <i>New York Times</i> article entitled "I seek Dead People"				

Defendant Discovery Communications, Inc.'s Exhibits**A. Discovery Communications, Inc. Expects to Offer the Following Exhibits at Trial:**

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
6	Collection of news articles about O'Grady (JA Ex. 6)				
6A	Collection of transcripts of television broadcasts regarding O'Grady rescue (JA Ex. 6A)				
6B	News releases and briefings by government agencies regarding O'Grady (JA Ex. 6B)				
8	DVD of the Movie <i>Behind Enemy Lines</i> (O'Grady Deposition No. 8 and JA Ex. 8)				
8A	VHS of the Movie <i>Behind Enemy Lines</i> (JA Ex. 8A)				
9	Certified copy of transcript of House National Security Committee Hearing 104-36 July 1995 (JA Ex. 9)				
10	Videotape of <i>Hot Ticket</i> , March 15, 2002 Bates No. SOG 005179 (O'Grady Deposition Exhibit No. 10 and JA Ex. 10)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
11A	Transcript of March 15, 2002 <i>Hot Ticket</i> appearance JA Ex. 11A				
13	"Good to Go – The Rescue of Scott O'Grady from Bosnia" by Mary Pat Kelly (O'Grady Deposition Exhibit No. 13 and JA Ex. 13)				
14	DVD of video news clips from Vanderbilt News Archive (Exhibit Nos. 14.1A thru 14.21A) JA Ex. 14				
14A	Transcripts of video news clips from Vanderbilt News Archive (Exhibit Nos. 14.1A thru 14.21A) JA Ex. 14				
14B	DVD of Video of ABC's <i>Nightline</i> at 11:30 p.m. on June 8, 1995 JA Ex. 14B				
14C	Transcript of of ABC's <i>Nightline</i> at 11:30 p.m. on June 8, 1995 JA Ex. 14C				
15	7/18/1995 Letter Agreement between Scott O'Grady and International Creative Management, Inc. (ICM) Bates Nos. SOG 003222 thru 3223 – Confidential (O'Grady Deposition Exhibit No. 15)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
17	December 20, 2001, <i>Spokane Spokesman Review</i> article and Etonline.com Celebrities Entertainment Tonight Online Interview of Scott O'Grady (MSJ Exhibit No. 17)				
18	Term Sheet for the Agreement between Orion Pictures Corporation and Scott O'Grady Bates Nos. SOG 03211 thru 3216 – Confidential (O'Grady Deposition Exhibit No. 18 and JA Ex. 18)				
19	8/21/2001 letter to Scott O'Grady from Justin Alvarado Brown of Orion Pictures Corporation (rights under agreement revert back to O'Grady) Bates Nos. SOG 003219 thru 003220 – Confidential (O'Grady Deposition Exhibit No. 19 and JA Ex. 19)				
20	9/26/01 Letter to Scott O'Grady from Justin Alvarado Brown of Orion Pictures Corporation Bates No. SOG 03221 – Confidential				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
21	11/26/01 Standard AFTRA Engagement Contract for single Television Broadcast and For Multiple Television Broadcasts Within One Calendar Week between Scott O'Grady and Paramount Pictures Bates Nos. SOG 003391 thru 3393 – Confidential (O'Grady Deposition Exhibit No. 21 and JA Exhibit No. 21)				
23	Graphic – O'Grady Engagement Revenue (O'Grady Deposition Exhibit No. 23)				
24	Chart: O'Grady's Speaking Engagements O'Grady Deposition Exhibit 24				
33	3/15/02 letter to Chaz Corzine from Dorrit Ragsine (re: involvement in publicity for DVD release of the movie) Bates No. SOG 004911- Confidential O'Grady Dep. Ex. 33				
34	03/26/2002 Letter to Chaz Corzine from Dorrit Ragsine with attached Press Release Bates Nos. SOG 003208 – 003210 (O'Grady Deposition Exhibit No. 34)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
37	Videotape of December 21, 2001 <i>Entertainment Tonight</i> Bates Nos. SOG 5218 (O'Grady Deposition Exhibit No. 37 and JA Ex. 37)				
37A	Transcript of December 21, 2001 <i>Entertainment Tonight</i> (only that portion concerned with Scott O'Grady) JA Ex. 37A				
38	01/07/2002 Facsimile to Scott O'Grady from Tom Mills of Track Record Enterprises attaching signed Letter Agreement Bates Nos. SOG 005061-005063 (O'Grady Deposition Exhibit No. 38)				
41	07/29/1996 Agreement between Stacy O'Grady and British Broadcasting Corporation Bates Nos. DCI 000087 thru 88 (O'Grady Deposition Exhibit No. 41 and JA Ex. 41)				
44	03/22/2002 letter to Scott O'Grady from David Crockford of BBC South Contracts Department attaching copy of agreement signed by O'Grady for "999" series in 1996 Bates Nos. SOG 003188 thru 3191 – Confidential (O'Grady Deposition Exhibit No. 44 and JA Ex. 44)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
45	05/14/1996 Agreement between British Broadcasting Corporation and Scott O'Grady Bates Nos. DCI 000083 thru 86 (O'Grady Deposition Exhibit No. 45 and JA Ex. 45)				
46	8/3/1996 Agreement between British Broadcasting Corporation and William P. O'Grady Bates Nos. (O'Grady Deposition Exhibit No. 46 and JA Ex. 46)				
48	The Discovery Channel Telecast History – Behind Enemy Lines: The Scott O'Grady Story Bates No. DCI 000152 (O'Grady Deposition Exhibit No. 48 and JA Ex. 48)				
49	Washington Speakers Bureau Brochure mentioning DCI Documentary Bates Nos. SOG 003379 thru 003390 (O'Grady Deposition Exhibit No. 49 and JA Ex. 49)				
50	Washington Speakers Bureau synopsis of Scott O'Grady from WSB mentioning DCI Documentary (O'Grady Deposition Exhibit No. 50 and JA Ex. 50)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
52	2/11/1997 Contract between Washington Speakers Bureau, Inc. and Scott O'Grady Bates Nos. SOG 004040 thru 4041 (O'Grady Deposition Exhibit No. 52)				
53	7/30/1996 Contract between Washington Speakers Bureau, Inc. and Scott O'Grady Bates Nos. SOG 004038 thru 4039 (O'Grady Deposition Exhibit No. 53)				
55	Partial Script of November 28 Discovery Channel Broadcast of Behind Enemy Lines – The Scott O'Grady Story Bates Nos. DCI 000001 – DCI 000012 (O'Grady Deposition Exhibit No. 55)				
68	07/07/2000 E-mail to Bob Harper and Tom Sherak from Tom Rothman Bates No. FOX 06131 (Godsick Deposition Exhibit No. 68)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
69	03/19/2001 E-mail to Bob Harper, Jim Gianopulos and Tom Rothman from Jeffrey Godsick (Sarah Coombs) Bates No. FOX 06140 (Godsick Deposition Exhibit No. 69)				
70	11/05/2001 E-mail to Bob Harper from Michelle Marks, Steve Siskind, Leslie Henig, Jeffrey Godsick Bates Nos. FOX 05331 - FOX 05333 (Godsick Deposition Exhibit No. 70)				
71	11/05/2001 Letter to Owen Wilson from Jeffrey Godsick Bates No. FOX 053191 (Godsick Deposition Exhibit No. 71)				
72	11/12/2001 E-mail to Florence Grace from Tom Rothman Bates No. FOX 06173 (Godsick Deposition Exhibit No. 72)				
73	11/15/2001 E-mail to Mr. and Mrs. Gene Hackman at Internet: eyeview@aol.com from Tom Rothman Bates No. FOX 06178 - FOX 06179 (Godsick Deposition Exhibit No. 73)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
76	Document entitled "Behind Enemy Lines, Spending in Ultimate" FOX 03073 - FOX 03178 (Bound under separate cover) (Siskind Deposition Exhibit No. 76)				
96	10/09/2001 E-mail between Robert Alan Anderson, Mary Baquet, Kelly Patterson, Roger Henry Bates Nos. DCI 000038 – DCI 000039 (Patterson Deposition Exhibit No. 96)				
99	10/23/01 Email from Kelly Patterson to Naomi Kahne, Liz Miltello, Jenny Rhoades, Michelle Marks, Marc Goodman and Christa Catanoso Bates Nos. FOX 00883 to FOX 00888 Patterson Dep. Ex. 99				
100	11/01/2001 E-mail from Jenny Rhoades of Fox to Christa Catanoso of Discovery Bates No. DCI 000078 (Patterson Deposition Exhibit No. 100)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
101	Document entitled "Behind Enemy Lines, 20 th Century Fox Production" Bates Nos. DCI 000014-16 (Patterson Deposition Exhibit No. 101)				
105	11/09/2001 E-mail between Michelle Marks, Kelly Patterson, Robert Alan Anderson, Cathy Hodges, Jason Groff, Tom Grane Bates Nos. DCI 000027 – DCI 000028 (Patterson Deposition Exhibit No. 105 and JA Exhibit No. 105)				
108	11/15/2001 email from Michelle Marks to Robert Anderson with copy to Kelly Patterson Bates Nos. DCI 000025 (Patterson Deposition Exhibit No. 108 and JA Ex. 108)				
109	11/26/2001 E-mail from Mr. Anderson to Michelle Marks, with a copy to Kelly Patterson Bates No. DCI 000021 (Patterson Deposition Exhibit No. 109)				
111	11/28/2001 E-mail from Michelle Marks to Robert Anderson with a copy to Kelly Patterson Bates Nos. DCI 000019 – DCI 000020 (Patterson Deposition Exhibit No. 111)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
113	Document entitled "1 st Break Bump Out" Bates Nos. DCI 000001 – DCI 000012 (Patterson Deposition Exhibit No. 113)				
114	11/28/2001 Videocassette entitled "Scott O'Grady, Behind Enemy Lines, Compilation Reel 11/28/01" Bates No. DCI 0000285 (Patterson Deposition Exhibit No. 114 and JA Ex. 114)				
114A	Transcript of JA Ex. 114 (Compilation Reel 11/28/01) JA Ex. 114A				
115	Portions of Fox Film's Electronic Press Kit – videocassette entitled "Behind Enemy Lines Sound bites TRT: 19 minutes, 25 seconds, B roll (short version TRT 14.00) Bates No. DCI 000157 (Patterson Deposition Exhibit No. 115)				
116	Document entitled "The Discovery Channel Telecast History, Behind Enemy Lines: The Scott O'Grady Story" Bates No. DCI 000152 (Patterson Deposition Exhibit No. 116 and JA Ex. 116) Confidential				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
119	<p>Document entitled "Behind Enemy Lines: The Scott O'Grady Story"</p> <p>Actual and Estimated number of households that tuned in to <i>Behind Enemy Lines: The Scott O'Grady Story</i> on November 28, 2001 on The Discovery Channel</p> <p>Bates No. DCI 000283</p> <p>(Patterson Deposition Exhibit No. 119 and JA Ex. 119)</p> <p>Confidential</p>				
125-A	<p>Document entitled "Discovery Channel Deal Summary Page Deal-to-Date thru March 2002"</p> <p>Bates Nos. DCI 000253-254</p> <p>(Patterson Deposition Exhibit No. 125A)</p> <p>Confidential</p>				
126	<p>11/6/2001 letter from Christa Catanoso to Jenny Rhoades</p> <p>Bates No. DCI 000136-150</p> <p>(Patterson Deposition Exhibit No. 126)</p>				
133	<p>04/30/2003 Subpoena in a Civil Case for Robert Parsons and Notice of Oral and Videotape Deposition of Robert Parsons</p> <p>Bates Nos.</p> <p>(Parsons Deposition Exhibit No. 133)</p>				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
134	<p>3/27/00 fax from Renata Thompson of the Washington Speakers Bureau to Scott O'Grady</p> <p>Bates Nos. SOG 004245-4249</p> <p>(Parsons Deposition Exhibit No. 134 and JA Ex. 134)</p> <p>Confidential</p>				
135	<p>2000 – Chart - Speaking Engagements for Calendar Year 2000 for Scott O'Grady</p> <p>Bates Nos. WSB 00017</p> <p>(Parsons Deposition Exhibit No. 135 and JA Ex. 135)</p>				
136	<p>2001 – Chart – Speaking Engagements for Calendar Year 2001 for Scott O'Grady</p> <p>Bates Nos. WSB 00018-19</p> <p>(Parsons Deposition Exhibit No. 136 and JA Ex. 136)</p>				
137	<p>2002 – Chart – Speaking Engagements for Calendar Year 2002 for Scott O'Grady</p> <p>Bates Nos. WSB 00020-21</p> <p>(Parsons Deposition Exhibit No. 137 and JA Ex. 137)</p>				
144	<p>02/26/2003 Internet Printout from Washington Speakers Bureau Website regarding Scott O'Grady, mentioning DCI Documentary</p> <p>Bates Nos. WSB 00006</p> <p>(Parsons Deposition Exhibit No. 144)</p>				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
146	<p>Invitation to Washington Speakers Bureau Spring Speaker Showcase</p> <p>Bates Nos. WSB 00058-00071</p> <p>(Parsons Deposition Exhibit No. 146)</p>				
148	<p>2003 Washington Speakers Bureau Brochure mentioning DCI Documentary</p> <p>Bates Nos. WSB 00033 - 00035</p> <p>(Parsons Deposition Exhibit No. 148 and JA Ex. 148)</p>				
152	<p>Programme Complete for BBC – 999 Special</p> <p>Bates Nos. DCI 000176 – DCI 000252</p> <p>(Anderson Deposition Exhibit No. 152)</p>				
155	<p>05/17/1996 Letter to O’Grady from Sally Dyas</p> <p>Also Bates Nos. BBC 000373</p> <p>(W. O’Grady Deposition Exhibit No. 155)</p>				
156	<p>7/25/96 letter to Dr. William P. O’Grady from Sally Dyas</p> <p>Bates Nos. BBC 0000374-375</p> <p>(W. O’Grady Deposition Exhibit No. 156 and JA Ex. 156)</p>				
157	<p>7/29/96 BBC contract signed by Dr. William O’Grady</p> <p>Bates No. DCI 000089</p> <p>(W. O’Grady Deposition Exhibit No. 157 and JA Ex. 157)</p>				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
158	08/12/1996 Letter from Sally Dyas to Dr. O'Grady Bates No. BBC 000376 (W. O'Grady Deposition Exhibit No. 158)				
159	08/27/1996 Letter from Sally Dyas to Dr. O'Grady Bates No. BBC 000377 (W. O'Grady Deposition Exhibit No. 159)				
176	11/27/1995 letter to Esther Newberg from Bill Thomas enclosing correspondence with Col. George Day Bates Nos. ICM 087-94 (Newberg Deposition Exhibit No. 176 and JA Ex. 176) Confidential				
178	1/7/97 Memorandum Agreement between Scott O'Grady and Thomas Mills of Track Record Enterprises Bates Nos. SOG 005054 – 005055 (Mills Depositions Exhibit No. 178 and JA Ex. 178) Confidential				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
179	<p>1/15/98 Memorandum Agreement between Scott O'Grady and Thomas Mills of Track Record Enterprises</p> <p>Bates Nos. SOG 005057 - 005058</p> <p>(Mills Deposition Exhibit No. 179 and JA Ex. 179)</p> <p>Confidential</p>				
180	<p>03/25/2002 Letters to and from Tom Mills and Scott O'Grady</p> <p>Bates Nos. TRE 00001-00007</p> <p>(Mills Deposition Exhibit No. 180)</p>				
181	<p>4/3/97 Representation Agreement signed by Scott O'Grady and David Barlow of Sport, Education and Values Foundation</p> <p>Bates No. SOG 005060</p> <p>(Mills Deposition Exhibit No. 181 and JA Ex. 181)</p> <p>Confidential</p>				
182	<p>5/19/98 letter to Tom Mills from Kay Ferguson (re: Ingalls Shipbuilding)</p> <p>Bates Nos. SOG 005069-5072</p> <p>(Mills Depositions Exhibit No. 182 and JA Ex. 182)</p> <p>Confidential</p>				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
183	5/26/98 Track Record Enterprises invoice to Kay Ferguson re: Ingalls Shipbuilding payment to Tom Mills and Scott O'Grady Bates No. SOG 005068 (Mills Deposition Exhibit No. 183 and JA Ex. 183) Confidential				
186	02/11/1997 Memorandum of Agreement Bates No. SOG 005059 (Mills Deposition Exhibit No. 186)				
187	Notice of Deposition of T. Mills				
188	04/10/1997 Fax to Sally Dyas from Rebecca Child re: Discovery Channel video "Missing in Action" Also Bates Nos. BBC 000371 (Mills Deposition Exhibit No. 188)				
222	09/03/02 E-mail to Robert Alan Anderson to Kelly Patterson Bates Nos. DCI 000024 - 000025 (Marks Deposition Exhibit No. 222)				
288	2/29/1996 letter to Captain Scott O'Grady from Sally Dyas Also Bates No. BBC 000356-357 (O'Grady Deposition Exhibit No. 288)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
289	8/3/1995 letter to Captain Scott O'Grady from Sally Dyas Also Bates Nos. BBC 000358-359 (O'Grady Deposition Exhibit No. 289)				
290	3/26/1996 letter to Captain Scott O'Grady from Sally Dyas Also Bates No. BBC 00360 (O'Grady Deposition Exhibit No. 290)				
291	4/15/1996 letter to Captain Scott O'Grady from Sally Dyas Also Bates No. BBC 000361 (O'Grady Deposition Exhibit No. 291)				
292	4/18/1996 letter to Captain Scott O'Grady from Sally Dyas Also Bates No. BBC 000362 (O'Grady Deposition Exhibit No. 292)				
293	6/27/1996 letter to Captain Scott O'Grady from Sally Dyas Also Bates Nos. BBC 000363-364 (O'Grady Deposition Exhibit No. 293)				
294	08/21/1996 Handwritten note to Sally from Stacy Also Bates Nos. BBC 000365-366 (O'Grady Deposition Exhibit No. 294)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
295	8/27/1996 letter to Captain Scott O'Grady from Sally Dyas Also Bates Nos. BBC 000367-368 (O'Grady Deposition Exhibit No. 295)				
296	9/4/1996 letter to Captain Scott O'Grady c/o Rebecca Child from Sally Dyas Also Bates No. BBC 000369 (O'Grady Deposition Exhibit No. 296)				
297	3/25/1996 note to Captain Scott O'Grady from Sally Dyas Also Bates No. BBC 000370 (O'Grady Deposition Exhibit No. 297)				
298	04/10/1997 Fax from Rebecca Child to Sally Dyas Also Bates No. BBC 000371 (O'Grady Deposition Exhibit No. 298)				
299	6/10/1997 fax to Sally Dyas from Scott O'Grady Also Bates No. BBC 000372 (O'Grady Deposition Exhibit No. 299 and JA Ex. 299)				
301	06/05/2003 Internet Printout from Library of Congress Online Catalog (O'Grady Deposition Exhibit No. 301)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
302	6/12/03 Internet printout from Amazon.com of "Behind Enemy Lines" by Cindy Dees (Silhouette Intimate Moments, No. 1176) (O'Grady Deposition Exhibit No. 302 and JA Ex. 302)				
303	6/12/03 Internet printout from Amazon.com of "BEL - A Field Manual for God's Army" by Chuck Dean Bates Nos. (O'Grady Deposition Exhibit No. 303 and JA Ex. 303)				
304	06/10/2003 Internet Printout from Amazon.com showing results for: behind enemy lines (O'Grady Deposition Exhibit No. 304 and JA Ex. 304)				
305	10/24/1996 Article from USA Today - "Military aircraft series 'Wings' takes a turn for the dramatic" (O'Grady Deposition Exhibit No. 305)				
306	11/2002/1995 Letter to Jack Hoeft, President of Bantam-Doubleday from Col. George E. Day, Author of "Return with Honor" Bates No. ICM 094 (O'Grady Deposition Exhibit No. 306)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
307	11/08/1995 Letter to Colonel Day from Katherine Trager Bates Nos. ICM 090 – 092 (O'Grady Deposition Exhibit No. 307)				
308	11/20/1995 Letter to Katherine Trager from Col. George Day Bates Nos. ICM 088 – 089 (O'Grady Deposition Exhibit No. 308)				
313	03/11/2002 Fax from George Buston of FilmRoos to Scott O'Grady Bates Nos. SOG 004898 – 004899 (O'Grady Deposition Exhibit No. 313 and JA Ex. 313)				
317	Video: "Escape! Escape from Bosnia – Scott O'Grady Story" (O'Grady Deposition Exhibit No. 317 and JA Ex. 317)				
317A	Transcript of The History Channel Documentary "Escape! Escape from Bosnia: The Scott O'Grady Story" (JA Ex. 317A)				
416A	Henninger Video invoice reflecting production costs of special programming event (DCI 000302-314) Franklin Johnson Dep. Ex. 416				
416B	Allison Hurst invoice reflecting production costs of special programming event (DCI 000295-301)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
442	04/27/1999 Handwritten Note to Mary Lou Scardapane from Sally at BBC. Also Bates No. BBC 000390 (Scardapane Deposition Exhibit No. 442)				
443	03/07/2002 Letter to BBC from Mary Lou Scardapane Also Bates No. BBC 000391 (Scardapane Deposition Exhibit No. 443)				
444	04/17/1999 Letter From Mary Lou Scardapane to Sally Dyas Also Bates No. BBC 000392 (Scardapane Deposition Exhibit No. 444)				
446	05/11/1997 Handwritten Thank You Note from Stacy to Sally Also Bates No. BBC 000393 (Scardapane Deposition Exhibit No. 446)				
447	10/29/1997 Letter from Sally Dyas to Mary Lou Scardapane Also Bates No. BBC 000394 (Scardapane Deposition Exhibit No. 447)				
458	07/01/1996 Letter to Stacy O'Grady from Sally Dyas of the BBC South Also Bates No. BBC 000378 (S. Dietschak Deposition Exhibit No. 458)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
461	08/21/1996 Letter to Sally (Dyas) from Stacy (O'Grady) Also Bates Nos. BBC 000383-384 (S. Dietschak Deposition Exhibit No. 461)				
462	08/30/1996 Letter to Stacy O'Grady from Sally Dyas of BBC South Also Bates No. BBC 000385 Bates Nos. BBC 000383-384 (S. Dietschak Deposition Exhibit No. 462)				
463	01/12/1997 Letter to Sally (Dyas) from Stacy (O'Grady) Also Bates Nos. BBC 000386-387 (S. Dietschak Deposition Exhibit No. 463)				
464	03/25/1997 Letter to Stacy (O'Grady) from Sally Dyas of BBC South Also Bates No. BBC 000388 (S. Dietschak Deposition Exhibit No. 464)				
513	Certified transcript of videotape Ex. 335 JA Ex. 335A				
514	Discovery Communications, Inc. website JA Ex. 336				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
522	2/6/2002 Letter from Christa Catanoso to Jenny Rhoades re 20 th Century Fox – “Behind Enemy Lines” Discovery Communications Post Buy Analysis 4Q01 Scatter Bates No. DCI 000286-294				
533	Videotape of “Wings (Cobra) Whispering Death” Bates No. DCI 000336				
546	Curriculum Vitae of Philip Johnson				
602	Certified transcript of Videotape MSJ Exhibit No. 335				
603	Discovery Communication Website (MSJ Exhibit No. 336)				
604	Collection of news articles concerning Discovery’s awards (MSJ Exhibit No. 337A)				
606	Anne Hodges, “Discovery Channel Airs O’Grady’s Documentary, <i>The Houston Chronicle</i> , May 30, 1997 at 1 JA Ex. 338				
607	upcomingmovies.com website JA Ex. 339				
608	Still from interstitial of title of Fox Movie, <i>Behind Enemy Lines</i> JA Ex. 340A				
609	Stills from Documentary displaying Discovery Channel logo JA Ex. 340B				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
610	Stills from Documentary displaying "Walking with Prehistoric Beasts" logo JA Ex. 340C				
611	Still from interstitial displaying Discovery Channel logo JA Ex. 340D				
612	Still from interstitial displaying documentary title, " <i>Behind Enemy Lines: The Scott O'Grady Story</i> " JA Ex. 340E				
613	Still from interstitial displaying Fox logo JA Ex. 340F				
614	Stills from opening interstitial JA Ex. 340G				
615	Stills from factoid on nutrition facts from interstitial "Bump Out" JA Ex. 340H				
616	Stills from factoid on <i>U.S.S. Carl Vinson</i> from interstitial "Bump Out" JA Ex. 340I				
616	05/15/1996 Agreement between BBC and Scott O'Grady with original signature				
617	Videotape entitled November 28, 2001 Broadcast of the Discovery Channel Documentary 'Behind Enemy Lines: The Scott O'Grady Story' including all advertisements Bates No. DCI 00335 JA Ex. 335				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
618	Curriculum Vitae of Frank Johnson				
619	Curriculum Vitae of Roger Armstrong				
620	Video of DCI special programming event "Last Samurai/XMA – Introduction/ Mini Docs/ Bumpers" Bates No. DCI 000339				
621	Video of DCI special programming event "XMA: Xtreme Martial Arts/Last Samurai" Bates No. DCI 000340				
622	Video of DCI special programming event "U-571 Vignettes, Promos, and Bumps" Bates No. DCI 000341				
623	Video of DCI special programming event "Ice Age Stunt – The Real Beast of the Ice Age" Bates No. DCI 000342				
624	Video of DCI special programming event "Mummified" Bates No. DCI 000343				
625	Video of DCI special programming event "Battle for the Empire" 11/12/03 "Master and Commander: The Far Side of the World" Bates No. DCI 000344				
626	Video of DCI special programming event "Scorpion King Programming" Bates No. DCI 000345				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
627	Video of DCI special programming event "Oceans 11" Bates No. DCI				
628	11/12/01 Letter from Catanoso to Rhoades (re: additional \$125,000 ad buy) (DCI 000124-135 CONFIDENTIAL)				
629	Air Date Report for "Wings (Cobra) Whispering Death" Bates No. DCI 000337				
630	"Air Master: Cut to Clock Tape" of Documentary <i>Behind Enemy Lines: The Scott O'Grady Story</i> (DCI 000338)				
631	Transcript of tune-ins and interstitials				
632	List of DCI Documentary Air Dates Bates No. DCI 000013				
633	Articles about Discovery Documentary showing title Bates Nos. DCI 000315-334				
634	3/22/2002 letter from David Crockford at BBC to Scott O'Grady faxing copy of agreement for "999" series Bates No. DCI 000095				
635	Photos of Scott O'Grady and Sally Dyas and various other BBC personnel Bates Nos. BBC 000001-8				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
636	RECCE Sched as of 17 May 1996 – schedule of travel, filming and interviews for June, 1996 Bates Nos. BBC 000013-16				
637	“Scott O’Grady” Filming Schedule Wednesday 31 July - Wednesday 7 August Bates Nos. BBC 000059-75				
638	6/3/96 fax from Anna Gol to Sally Dyas Bates Nos. BBC 000079-99				
639	List of who to send tapes to Bates Nos. BBC 000124-140				
640	3/25/1997 letters from Sally Dyas to General Berndt, Sgt. Pfister, Col. Tarbutton, Major Mykleby, TO Hanford, Bob [Wright], Dr. O’Grady, and blank form letter Bates Nos. BBC 000152-159				
641	Handwritten notes Bates Nos. BBC 000161-164				
642	Receipt from Lloyds Bank Bates No. BBC 000165				
643	8/12/96 letters from Sally Dyas, et al. to personnel at Mt. Vernon Hospital Bates Nos. BBC 000166-168				
644	USA Today article on Discovery Channel airing of “Whispering Death” Bates No. BBC 000179				
645	11/5/96 letter from Sally Dyas to Major Nancy La Luntas Bates Nos. BBC 000183-184				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
646	8/12/96 letters from Sally Dyas, et al. to Major Mykleby, Sgt. Pfister and Col. Tarbutton Bates No. BBC 000190-192				
647	Diagram of seating arrangements Bates No. BBC 000206				
648	11/6/96 letter from Sally Dyas, et al. to Major Bob Wright Bates No. BBC 000242-243				
649	7/1/96 letter from Sally Dyas to Major Ken Warren Bates No. BBC 000265				
650	5/15/96 letter from Sally Dyas to Major Ken Warren at Hill AFB, Utah Bates Nos. BBC 000267-269				
651	12/1/95 fax cover sheet from Sally Dyas to Msgt. C. Segal with letter Bates Nos. BBC 000274-275				
652	11/7/96 letter from Sally Dyas, et al. to Master Sgt. D. Dick at USAF Survival School Bates No. BBC 000277				
653	11/7/96 letter from Sally Dyas to Sgt. Conrad at Fairchild AFB Bates No. BBC 000278				
654	11/7/96 letter from Sally Dyas, et al. to Lt. Col. Osborne, USAF Survival School Bates No. BB C 000279				
655	7/7/95 letter to Capt. Mitchell, Allied Forces South Europe (sender not identified), with fax cover sheet from Sally Dyas Bates Nos. BBC 000339-340				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
656	7/10/95 letter from Sally Dyas to Major Balmer (Fairchild AFB) Bates Nos. BBC 000342-343				
657	7/10/95 fax cover sheet from Sally Dyas to Brig. Gen. Sconyers Bates No. BBC 000344				
658	7/24/95 letter from Sally Dyas to Brig. Gen. Sconyers Bates Nos. BBC 000346-347				
659	7/10/95 fax from SMSgt. Joe Lavigne Bates No. BBC 000348				
660	8/2/95 letter from Sally Dyas to Major C. Geisel Bates No. BBC 000350-353				
661	10/14/95 letter from Sally Dyas to Major C. Geisel Bates No. BBC 000354-355				
662	Undated handwritten note from Major Bob "Wilbur" Wright to Sally Bates No. BBC 000395				
663	4/7/1997 letter from Major Kenneth E. Warren, Chief of Public Affairs, Department of the Air Force, to Sally Dyas Bates No. BBC 000396				
664	4/2/1997 email from SM Sgt. Dale Warman to Sally Dyas, with cc: Thomas Hanford and Michael Paoli Bates No. BBC 000397				
665	5/17/1996 letter from Sally Dyas to Mr. [William] O'Grady Bates No. BBC 000398				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
666	12/2/1996 letter from Sally Dyas to Captain TO Hanford Bates No. BBC 000399				
667	8/12/1996 letter from Sally Dyas, et al. to Major R. Wright Bates No. BBC 000400				
668	10/30/1995 letter from MSgt. Catherine A. Segal, Department of the Air Force to Sally Dyas Bates No. BBC 000403				
669	4/14/1997 letter from Sally Dyas to Ms. S. O'Grady Bates No. BBC 000404				
670	7/10/1995 fax cover sheet from Sally Dyas to Major C. Ballmer with an address at Fairchild Air Force Base Bates No. BBC 000406				
671	6/20/1995 letter from Tony Salmon, Director, BBC, to Commander in Chief, U.S. Naval Forces Europe Bates No. BBC 000407-408				
672	7/10/1995 letter from Sally Dyas to Brigadier General Sconyers, Secretary Air Force Bates No. BBC 000409-410				
673	2/13/1996 letter from Sally Dyas to Jim Kout, Assistant Director of the Directorate of Defense Information Bates Nos. BBC 000411-412				
674	4/12/91996 letter from James P. Kout, Assistant Director, Directorate for Defense Information to Sally Dyas Bates No. BBC 000413				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
675	5/15/1996 fax cover sheet from Sally Dyas to Lauralee Hill Bates No. BBC 000414				
676	5/17/1996 letter from Sally Dyas to Lauralee Hill Bates No. BBC 000415				
677	7/22/1996 (and re-sent 11/18/1996) from Sally Dyas to Mr. S. Schear, Assistant Press Secretary for Television News Bates Nos. BBC 000416-417				
678	7/1/1996 letter from Sally Dyas to Stacey O'Grady Bates No. BBC 000418				
679	8/12/1996 letter from Sally Dyas, Tony Salmon, Bruce Abrahams to Stacy O'Grady Bates No. BBC 000419				
680	10/12/03 <i>New York Times</i> article entitled "I seek Dead People"				

B. Discovery Communications, Inc. May Offer the Following Exhibits at Trial:

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
3	<i>Return with Honor</i> by Captain Scott O'Grady with Jeff Coplon (Hardback Copy) (O'Grady Deposition Exhibit No. 3 and JA Ex. 3)				
4	<i>Return with Honor</i> by Scott O'Grady with Jeff Coplon (Soft Cover) (O'Grady Deposition Exhibit No. 4 and JA Ex. 4)				
5	<i>Basher Five-Two The True Story of F-16 Fighter Pilot Captain Scott O'Grady</i> by Captain Scott O'Grady with Michael French (O'Grady Deposition Exhibit No. 5 and JA Ex. 5)				
7	Fox's video stills No. 7 – 7.45 (O'Grady Deposition Exhibit No. 7)				
12	Internet articles regarding other pilots shot down in Bosnia and later rescued (MSJ Exhibit No. 12)				
20	Collection of video covers, Internet printout of available books and CDs using the phrase "Behind Enemy Lines" JA Ex. 20				
24	46 History Today 48 (1996) (JA Ex.24)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
25	1999 U.S. Individual Income Tax Return – Form 1040 – Scott O’Grady Bates Nos. SOG 003867 thru 3895 – Confidential (O’Grady Deposition Exhibit No. 25)				
26	07/26/2000 Letter to Andrew McDirmid from Suzanne Warren of Washington Speakers Bureau, Inc. enclosing 1099 for Scott O’Grady Bates Nos. SOG 004241 thru 4242 – Confidential (O’Grady Deposition Exhibit No. 26)				
27	2000 U.S. Individual Income Tax Return – Form 1040 – Scott O’Grady Bates Nos. (O’Grady Deposition Exhibit No. 27)				
28	2001 U.S. Individual Income Tax Return – Form 1040 – Scott O’Grady Bates Nos. (O’Grady Deposition Exhibit No. 28)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
42	03/07/2002 Letter to British Broadcasting Corporation from Mary Lou Scardapane requesting copy of Release O'Grady signed and 04/27/1999 Notes to Mrs. Scardapane from BBC Bates No. SOG 003186 (O'Grady Deposition Exhibit No. 42)				
43	03/08/? Note to Scott re fax to BBC Bates No. SOG 003187 (O'Grady Deposition Exhibit No. 43)				
97	10/22/2001 E-mail between Robert Alan Anderson, Mary Baquet, Kelly Patterson, Adam Stewart Bates Nos. DCI 000037 (Patterson Deposition Exhibit No. 97)				
98	10/23/2001 E-mail between Robert Alan Anderson, Mary Baquet, Kelly Patterson Bates No. DCI 000035 (Patterson Deposition Exhibit No. 98)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
102	<p>11/05/2001 E-mail from Mary Baquet to Adam Stewart, with copies to Kelly Patterson and Roger Henry</p> <p>Bates Nos. DCI 000031 – DCI 000032</p> <p>(Patterson Deposition Exhibit No. 102)</p>				
103	<p>11/05/2001 E-mail between Michelle Marks, Kelly Patterson, Robert Alan Anderson, Mary Baquet, Mark Goodman, Jenny Rhoades, Liz Miltello, Naomi Kahne</p> <p>Bates Nos. DCI 000033 – DCI 000034</p> <p>(Patterson Deposition Exhibit No. 103)</p>				
104	<p>11/08/2001 E-mail between Kelly Patterson, Michael Yavorsky, Robert-Alan Anderson, Mary Baquet, Lisa Miller, Raul Barragan, Edward Henderzak at Discovery</p> <p>Bates No. DCI 000029</p> <p>(Patterson Deposition Exhibit No. 104)</p>				
106	<p>11/11/2001 E-mail between Mary Baquet, Kelly Patterson, and Robert Anderson</p> <p>Bates No. DCI 000026</p> <p>(Patterson Deposition Exhibit No. 106)</p>				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
107	11/15/2001 E-mail between Robert Anderson, Kelly Patterson, and Mary Baquet Bates No. DCI 000024 (Patterson Deposition Exhibit No. 107)				
110	11/20/2001 E-mails between Michelle Marks, Robert Alan Anderson, Kelly Patterson, and Mary Baquet Bates Nos. DCI 000022 – DCI 000023 (Patterson Deposition Exhibit No. 110)				
112	12/06/2001 E-mail from Robert Anderson to Kelly Patterson Bates Nos. DCI 000017 – DCI 000018 (Patterson Deposition Exhibit No. 112)				
117	Document entitled “Behind Enemy Line, 20 th Century Fox Production Bates Nos. DCI 00079 – DCI 00082 (Patterson Deposition Exhibit No. 117)				
118	Document entitled “Behind Enemy Lines: The Scott O’Grady Story, Interstitial Value” Bates No. DCI 000284 (Patterson Deposition Exhibit No. 118)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
120	Document entitled "Discovery Channel Demographic Detail Report Broadcast 1 st Quarter 2002" Bates Nos. DCI 000279-282 (Patterson Deposition Exhibit No. 120) Confidential				
121	Document entitled "Discovery Channel Demographic Detail Report Broadcast 4 th Quarter 2001" Bates Nos. DCI 000267 – DCI 0000278 Confidential (Patterson Deposition Exhibit No. 121)				
122	Document entitled "Discovery Channel Demographic Detail Report Broadcast 4 th Quarter 2001" Bates Nos. DCI 000259 – DCI 0000266 Confidential (Patterson Deposition Exhibit No. 122)				
123	Document entitled "Discovery Channel Deal Summary Page Deal-to-Deal thru December 2001" Bates Nos. DCI 000257 – DCI 0000258 Confidential (Patterson Deposition Exhibit No. 123)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
124	Document entitled "Discovery Channel Deal Summary Page Deal-to-Deal thru December 2001" Bates Nos. DCI 000255 – DCI 0000256 Confidential (Patterson Deposition Exhibit No. 124)				
128	Document entitled "Subpoena in a Civil Case" Bates Nos. (Cairns Deposition Exhibit No. 128)				
129	10/03/1995 – Term Sheet as of October 3, 1995 between Savoy Pictures and Scott O'Grady Bates Nos. (Cairns Deposition Exhibit No. 129)				
138	05/03/2002 Contract for Washington Speakers Bureau for Scott O'Grady Bates Nos. SOG 004803 – 004804 (Parsons Deposition Exhibit No. 138)				
140	03/13/2002 Contract for Washington Speakers Bureau for Scott O'Grady Bates Nos. SOG 004737 – 004738 (Parsons Deposition Exhibit No. 140)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
141	01/25/2002 Contract for Washington Speakers Bureau for Scott O'Grady Bates Nos. SOG 004759 – 004760 (Parsons Deposition Exhibit No. 141)				
142	1999 to 2003 – Chart – Scott O'Grady's Engagements with Religious Organizations (1999-2003) Bates No. WSB 00016 (Parsons Deposition Exhibit No. 142)				
143	02/17/2003 Internet Printout from Washington Speakers Bureau Website "Most Requested Speakers" Bates Nos. WSB 00012 (Parsons Deposition Exhibit No. 143)				
160	00/00/2000 Book Proposal of <i>GOOD TO GO: The Planning, Search, and Rescue of Air Force Pilot Scott O'Grady in Bosnia</i> by Mary Pat Kelly Bates Nos. NIP 00001 – NIP 00002 (Kelly Deposition Exhibit No. 160)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
163	00/00/2000 Handwritten Notice re <i>Good to Go</i> Signed by Mary Pat Kelly Bates No. NIP 00148 – NIP 000149 (Kelly Deposition Exhibit No. 163)				
165	08/29/1996 Note from Susan Brook to Mary Pay Kelly enclosing photo of O'Grady Bates Nos. NIP 00164 – NIP 000165 (Kelly Deposition Exhibit No. 165)				
171	03/08/1996 Letter from Susan Artigiani to Rita Rich Bates Nos. NIP 00250 – NIP 000251 (Kelly Deposition Exhibit No. 171)				
172	00/00/2000 Mary Pat Kelly Tape List Bates No. NIP 00014 (Kelly Deposition Exhibit No. 172)				
174	08/08/1995 Memo to Esther Newberg from Barry Greenberg Bates No. ICM 041 (Newberg Deposition Exhibit No. 174)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
175	01/04/1996 Letter to Alan Sokol from Diane Cairns Bates No. ICM 082 (Newberg Deposition Exhibit No. 175 and JA Ex. 175)				
180	03/25/2002 Letters to and from Tom Mills and Scott O'Grady Bates Nos. TRE 00001 – 00007 (Mills Deposition Exhibit No. 180)				
185	01/15/1998 Letter from Tom Mills to Scott O'Grady Bates No. SOG 005056 (Mills Deposition Exhibit No. 185)				
189	05/26/1998 Letter to Scott O'Grady from Tom Mills Bates Nos. SOG 005066 – 005067 (Mills Deposition Exhibit No. 189)				
213	11/15/01 Media Release – “Fox to Host Premiere Screening of <i>Behind Enemy Lines</i> at Naval Air Station North Island, In San Diego” Bates No. FOX 00165 (Parker Deposition Exhibit No. 213)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
214	10/25/01 Fax from Ted Gagliano to Hutch Parker Bates Nos. FOX 06629 - 06630 (Parker Deposition Exhibit No. 214)				
220	11/05/01 E-mail from Michelle Marks and various others to Bob Harper Bates Nos. FOX 05331 - 05333 (Marks Deposition Exhibit No. 220)				
223	11/09/01 E-mail from Wendy Merry to Lisa Licht, Meredith Lipsky and Michele Marks Bates No. FOX 00517 (Marks Deposition Exhibit No. 223)				
227	11/23/01 New Hampshire 300 presented by Behind Enemy Lines Bates Nos. FOX 07259 - 07299 (Marks Deposition Exhibit No. 227)				
228	License Agreements between BBC and DCI Bates Nos. DCI 000112 through 123 (JA Ex. 228)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
272	00/00/00 Twentieth Century Fox Technical Story Slug: Behind Enemy Lines: Producer's Commentary Bates Nos. FOX 00732 – FOX 00803 (Davis Deposition Exhibit No. 272)				
273	11/05/99 "Behind Enemy Lines" A Broad Review of Script Development and Proposed Direction from John Moore Bates Nos. (Moore Deposition Exhibit No. 273)				
275	05/15/00 Memo to Zak Penn from Wyck Godfrey Bates Nos. DAVIS 00020 – 00021 (Moore Deposition Exhibit No. 275)				
279	11/30/01 Memo to Those Concerned from Carol Sewell Bates Nos. FOX 00038 – 00056 (Moore Deposition Exhibit No. 279)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
280	12/03/01 Article "Hollywood Goes to War" Bates Nos. FOX 00340 – 00343 (Moore Deposition Exhibit No. 280)				
282	03/06/02 Fax from Beth Luterman to Capt. Scott O'Grady Bates Nos. (Corzine Deposition Exhibit No. 282)				
283	03/15/02 Fax from Dorrit v to Chaz Corzine Bates Nos. (Corzine Deposition Exhibit No. 283)				
286	Amended Joint Notice of Oral and Videotaped Deposition of Scott O'Grady O'Grady Deposition Exhibit 286				
287	Plaintiff's Objections and Responses to Defendant Discovery Communications, Inc.'s Requests for Admission O'Grady Deposition Exhibit 287				
300	06/12/2003 Internet Printout from Amazon.com – "Scott O'Grady Behind Enemy Lines" by Jil Fine (O'Grady Deposition Exhibit No. 300)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
309	00/2000/2000 Handwritten Notes on Washington Speakers Bureau Paper Bates Nos. SOG 003935, 004007, 004098, 004099, 004380, 004381, 004486, 004634 (O'Grady Deposition Exhibit No. 309)				
311	05/19/1998 Letter to Tom Mills from Kay Ferguson Bates Nos. SOG 005069 - 005072 (O'Grady Deposition Exhibit No. 311)				
312	03/09/2002 Email from auto-confirm@amazon.com to zuluf16@aol.com re purchase of "Escape from Bosnia: The Scott O'Grady Story-Escape!" VHS Bates Nos. SOG 003179 - 003181 (O'Grady Deposition Exhibit No. 312 and JA Ex. 312)				
318	03/31/1997 Script of "Return with Honor" Fourth Revision Bates Nos. MGM 0001 - 0111 (O'Grady Deposition Exhibit No. 318)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
319	05/27/1997 United Artists Overview of Fourth Revision of "Return with Honor" Bates Nos. MGM 0115 – 0119 (O'Grady Deposition Exhibit No. 319)				
321	6/17/2003 Internet Printout from Hacker, Douglas & Company of Article "Less Than Zero" Studio Accounting Practices in Hollywood Bates Nos. (Hacker Deposition Exhibit No. 321)				
323	5/13/2003 Chart: Comparison of Ultimates to Actuals @ 04/30/2003 Prepared by Fox Accounting Presented to Phil Hacker on 5/13/2003 Bates No. HACKER 00014 (Hacker Deposition Exhibit No. 323)				
327	02/04/2003 Letter to Gabriel Gelb from Peter Flynn Bates Nos. SOG 005259 – 005260 (Gelb Deposition Exhibit No. 327)				
328	Video Bates No. SOG 5505 (Gelb Deposition Exhibit No. 328)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
329	03/31/2003; 04/30/2003; 06/16/2003 Invoices from Gabriel Gelb to C.W. Flynn Bates Nos. GELB 1205 - 1207 (Gelb Deposition Exhibit No. 329)				
330	02/12/2002 Draft of Bosnia Questionnaire from Gelb Consulting Group, Inc. Bates Nos. GELB 037 – 040 (Gelb Deposition Exhibit No. 330)				
331	06/06/2003 Email from C.W. Flynn to Scott Hastings re O’Grady Questionnaire Bates Nos. SOG 005472 – 05476 (Gelb Deposition Exhibit No. 331)				
332	03/06/2002 Draft of Bosnia Questionnaire from Gelb Consulting Group, Inc. Bates Nos. GELB 032 – 036 (Gelb Deposition Exhibit No. 332)				
333	00/2000/2000 Copies of pages from Webster’s Seventh New Collegiate Dictionary and Internet Printout from Yahoo Dictionary Bates Nos. (Gelb Deposition Exhibit No. 333)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
334	06/06/2003 Email from C.W. Flynn to Scott Hastings re "3-6 revised Q" Bates Nos. SOG 005466 – 005471 (Gelb Deposition Exhibit No. 334)				
335	03/24/2003 Bosnia Questionnaire from Gelb Consulting Group, Inc. Bates Nos. GELB 823 – 827; 834 – 837; 863 – 867; 868 – 872; 903 – 907; 958 – 961 (Gelb Deposition Exhibit No. 335)				
336	06/06/2002 Draft of Bosnia Questionnaire from Gelb Consulting Group, Inc. Bates Nos. GELB 718 – 822; 839 – 842 (Gelb Deposition Exhibit No. 336)				
337A	Collection of news articles concerning DCI's awards JA Ex. 337A				
337	03/06/2003 Draft of Bosnia Questionnaire from Gelb Consulting Services Bates Nos. GELB 072 – 077 (Gelb Deposition Exhibit No. 337)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
337B	Collection of news articles concerning Discovery Channel's programs JA Ex. 337B				
338	06/06/2003 Email from C.W. Flynn to Scott Hastings re Bosnia Pre-Test Tab Bates Nos. SOG 005460 – 005465 (Gelb Deposition Exhibit No. 338)				
339	03/20/2003 Email from Gabe Gelb to gebowles@lockliddell.com re Bosnia Pre-Test Tab Bates Nos. SOG 005360 – 005365 (Gelb Deposition Exhibit No. 339)				
340	03/24/2003 Bosnia Questionnaire from Gelb Consulting Group, Inc. Bates Nos. GELB 066 – 071 (Gelb Deposition Exhibit No. 340)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
341	<p>03/24/2003 Bosnia Questionnaire from Gelb Consulting Group, Inc.</p> <p>Bates Nos. GELB 195 – 199; 215 – 219; 225 – 251; 264 – 269; 276 – 310; 316 – 318; 320 – 330; 336 – 344; 350 – 354; 380 – 395; 401 – 410; 416 – 420; 442 – 451; 458 – 463</p> <p>(Gelb Deposition Exhibit No. 341)</p>				
342	<p>03/24/2003 Bosnia Questionnaire from Gelb Consulting Group, Inc.</p> <p>Bates Nos. GELB 669 – 673; 664 – 668; 654 – 658; 649 – 653; 644 – 648; 634 – 638; 629 – 633; 610 – 613; 604 – 608; 584 – 588; 579 – 583; 574 – 578; 564 – 568; 544 – 548; 534 – 538; 514 – 518; 509 – 513; 494 – 498; 484 – 488; 479 – 483</p> <p>(Gelb Deposition Exhibit No. 342)</p>				
343	<p>03/24/2003 Bosnia Questionnaire from Gelb Consulting Group, Inc.</p> <p>Bates Nos. GELB 987 – 991; 1012 – 1016; 1022 – 1030; 1036 – 1040; 1046 – 1055; 1076 – 1080; 1086 – 1095; 1101 – 1115; 1131 – 1139; 1145 – 1149; 1170 – 1174; 1180 – 1184; 1200 – 1204</p> <p>(Gelb Deposition Exhibit No. 343)</p>				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
344	00/2000/2000 Bosnia Code List Bates Nos. GELB 056 – 059 (Gelb Deposition Exhibit No. 344)				
345	Video: Bates Nos. DCI 000078; GELB 001 (Gelb Deposition Exhibit No. 345)				
346	04/2000/2003 Bosnia Study - #1092 from Gelb Consulting Group, Inc. Bosnia Video Study Bates Nos. GELB 0193 – 194 (Gelb Deposition Exhibit No. 346)				
347	04/09/2003 Email from Gabe Gelb to cwflynn@lockeliddell.com; gebowles@lockeliddell.com; rwhardin@lockeliddell.com Bates Nos. SOG 005377 – 005386 (Gelb Deposition Exhibit No. 347)				
348	04/28/2003 Gelb Memo to Mary Bates at MARS Research re Validation Calls – “Bosnia” Gelb PO #1092 Bates No. GELB 184 (Gelb Deposition Exhibit No. 348)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
349	05/12/2003 Memo from Becky Hanner at Consumer Pulse to Marilyn MacRill re Recruiting Information Bates Nos. GELB 185 – 188 (Gelb Deposition Exhibit No. 349)				
350	05/06/2003 Email from mbates@marstexas.com to Marilyn Macrill re Validating Bates No. GELB 192 (Gelb Deposition Exhibit No. 350)				
351	06/06/2003 Email from C.W. Flynn to Scott Hastings re Bosnia report and tables Bates Nos. SOG 005396 – 005420 (Gelb Deposition Exhibit No. 351)				
352	05/15/2003 Email from Gabe Gelb to cwflynn@lockeliddell.com re Bosnia report 5-15 Bates Nos. GELB 009 – 026 (Gelb Deposition Exhibit No. 352)				
353	06/06/2003 Email from C.W. Flynn to Scott Hastings re Bosnia report revised Bates Nos. SOG 005442 – 005450 (Gelb Deposition Exhibit No. 353)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
354	05/29/2003 Memo to Marilyn MacRill from Mary Bates re Validation Statement – Bosnia Project Bates Nos. GELB 189 – 190 (Gelb Deposition Exhibit No. 354)				
357	06/04/2003 Email from Mark Roesler to Wes Zirkle re O’Grady Bates No. ROESLER 000038 (Roesler Deposition Exhibit No. 357)				
358	00/2000/2000 § 7.03 Celebrity Licensing Mark A. Roesler Bates Nos. ROESLER 000017 – 000027 (Roesler Deposition Exhibit No. 358)				
360	00/2000/2000 Copy of § 10:18 – Exclusive Licenses Bates Nos. ROESLER 000015 – 000016 (Roesler Deposition Exhibit No. 360)				
361	00/2000/2000 Various Excerpts from <i>Licensing Royalty Rates</i> by Gregory Battersby and Charles Grimes Bates Nos. ROESLER 000012 – 000014 (Roesler Deposition Exhibit No. 361)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
362	03/17/2003 Letter to George Bowles from Mark Roesler re Retainer Agreement Bates Nos. SOG 005241 – 005247 (Roesler Deposition Exhibit No. 362)				
363	02/10/2003 Email from Wes Zirkle to gbowles@lockeliddell.com re Mark Roesler Bates Nos. ROESLER 000032 – 000036 (Roesler Deposition Exhibit No. 363)				
365	05/13/2003 Email from Wes Zirkle to rhardin@lockeliddell.com re Expert Opinion Secure Link//Strictly Confidential Bates No. SOG 005487 (Roesler Deposition Exhibit No. 365)				
366	04/08/2003 Email from Wes Zirkle to gbowles@lockeliddell.com re Mark Roesler's Biography and CV Bates Nos. ROESLER 000037; SOG 005372 – 005376 (Roesler Deposition Exhibit No. 366)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
367	06/19/2003 Printout of CMG Worldwide Client List from CMG Web Site (Roesler Deposition Exhibit No. 367)				
371	01/22/1996 Agreement between Orion Pictures and Scott O'Grady Bates Nos. ROESLER 000006 – 000011 (Roesler Deposition Exhibit No. 371)				
372	09/26/2001 Letter from Justin Brown to Scott O'Grady re "Return with Honors" Bates No. ROESLER 000040 (Roesler Deposition Exhibit No. 372)				
373	10/06/1995 Letter to Alan Sokol from Diane Cairns Bates Nos. ROESLER 000142; 000121 – 000000124 (Roesler Deposition Exhibit No. 373)				
374	01/04/1996 Letter from Diane Cairns to Alan Sokol Bates No. ICM 082 (Roesler Deposition Exhibit No. 374)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
376	00/2000/2000 Copy of the History Channel Videotape "Escape! Escape from Bosnia – The Scott O'Grady Story Bates Nos. (Roesler Deposition Exhibit No. 376)				
377	05/14/2003 Fax from Corinne Blankenship to Mark Roesler Attaching Ingalls Shipbuilding Agreement Dated 05/27/1998 Bates Nos. ROESLER 000268 – 000271 (Roesler Deposition Exhibit No. 377)				
378	04/2003/1997 Agreement between Sport, Education & Values Foundation and Captain Scott O'Grady Bates No. ROESLER 000272 (Roesler Deposition Exhibit No. 378)				
379	06/18/2003 Printout from markroesler.com of Famous Domain Names (Roesler Deposition Exhibit No. 379)				
382	07/11/2003 Handwritten Notes of Bill Flanagan (Flanagan Deposition Exhibit No. 382)				
388	? (Nielsen Deposition Exhibit No. 388)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
389	12/06/2001 Handwritten Note from Julie Nielsen to Scott O'Grady transmitting recorded video (Nielsen Deposition Exhibit No. 389)				
392	07/15/2003 Letter from Corinne Blankenship of Locke Liddell to Julie Nielsen enclosing copy of original videotape and handwritten note to Scott O'Grady (Nielsen Deposition Exhibit No. 392)				
393	07/22/2003 Handwritten Notes by Julie Nielsen on Locke Liddell envelope Bates Nos. (Nielsen Deposition Exhibit No. 393)				
423	Kelly Patterson's special programming events book Bates Nos. Armstrong 00002-198				
426	3/18/2003 Behind Enemy Lines Press Kit for DVD Release Bates Nos. FOX 01081-01196 (Armstrong Deposition Exhibit No. 426)				
428	7/28//2003 Various Critical Reviews of Behind Enemy Lines Bates Nos. (Armstrong Deposition Exhibit No. 428)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
459	07/17/1996 Letter to Stacy O'Grady from Sally Dyas of the BBC South Also Bates Nos. BBC 000379-381 (S. Dietschak Deposition Exhibit No. 459)				
460	08/12/1996 Letter to Stacy O'Grady from Tony Salmon of the BBC South Also Bates No. BBC 000382 (S. Dietschak Deposition Exhibit No. 460)				
500	06/14/1995 <i>Time</i> magazine article entitled "All for One"				
507	Declaration of Vernon Chu Appendix I of JA (under seal)				
508	9/25/1996 co-production agreement between The British Broadcasting corporation and BBC Worldwide Americas, Inc. (Ex. A to the Declaration of Vernon Chu -- Appendix II of JA (under seal))				
509	3/26/1997 amendment to co-production agreement between the British Broadcasting Corporation and BBC Worldwide Americas, Inc. (Ex. B. to the Declaration of Vernon Chu -- Appendix II of JA (under seal))				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
510	1/24/1994 letter to Lionheart Television International, Inc. from The Learning Channel (Ex. C to the Declaration of Vernon Chu -- Appendix II of JA (under seal))				
511	9/9/1996 addendum to License Agreement dated October 7, 1993 between The Learning Channel, Inc. and BBC Worldwide Americas, Inc. (Ex. D to the Declaration of Vernon Chu -- Appendix II of JA (under seal))				
512	11/29/1999 letter from BBC to Discovery Communications, Inc. attaching executed 9/9/1996 Addendum to License Agreement (Ex. E to the Declaration of Vernon Chu -- Appendix II of JA (under seal))				
542	Curriculum Vitae of Neil Freeman				
545	Curriculum Vitae of Alan Goedde				
547	Curriculum Vitae of Edward Blair				
614	Transcription of Tape #1 – Coplon and O’Grady Bates Nos. SOG 000001 – SOG 000101				
681	Washington Speakers Bureau 2001 contracts – Confidential (JA Ex. 27)				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
682	Washington Speakers Bureau 2002 contracts - Confidential JA Ex. 28				
683	"Scott O'Grady" Filming Schedule Tuesday 3 December - Sunday 8 December Bates Nos. BBC 000017-19				
684	Daily Schedule for Tuesday 3 December 96 through Sunday 8 December 96 Bates Nos. BBC 000021-25				
685	"Scott O'Grady" Frankfurt - Schedule Wednesday 20 November - Thursday 21 November Bates No. BBC 000026				
686	Itinerary for BBC Production of O'Grady Rescue - December 4-6 Bates No. BBC 000027				
687	"Scott O'Grady" Filming Schedule Monday 21 October - Thursday 31 October Bates No. BBC 000029				
688	General phone numbers Bates Nos. BBC 000030-32				
689	Travel schedules for Tuesday 15 October 96 - Thursday 31 October 96 Bates Nos. BBC 000033-50				
690	"Scott O'Grady" Filming Schedule Wednesday 14 August - Sunday 18 August				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
	Bates Nos. BBC 000052-55				
691	Copy of envelope from GIFT to Sally Dyas postmarked 5/28/97				
	Bates No. BBC 000110				
692	Postcard notice that O'Grady has moved as of June 1, 1997				
	Bates No. BBC 000111				
693	Names, addresses and phone numbers for O'Grady family and others				
	Bates Nos. BBC 000114-123				
694	Lists of "O'Grady Contacts" and business cards				
	Bates Nos. BBC 000141-151				
695	Bio of Captain Scott F. O'Grady from 2/96				
	Bates No. BBC 000173				
696	12/17/96 letter to 1 st Lt. S. R. Quimby from Sally Dyas/Tony Salmon				
	Bates No. BBC 000176				
697	Copy of clearance from Lt. Quimby				
	Bates Nos. BBC 000177-178				
698	10/2/96 letter to Lt. Quimby from Sally Dyas				
	Bates Nos. BBC 000180-182				
699	Undated letter to Captain S. Cubbler				
	Bates No. BBC 000186				
700	8/12/96 letter from Sally Dyas, et al. to Brigadier General M. R. Berndt				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
	Bates No. BBC 000187				
701	8/12/96 letter from Sally Dyas, et al. to Cpl. Brock				
	Bates No. BBC 000188				
702	8/12/96 letter from Sally Dyas, et al. to Lt. Quimby				
	Bates No. BBC 000189				
703	Note from Lt. Quimby to Capt. Johnson				
	Bates No. BBC 000193				
704	7/22/96 letter from Sally Dyas to Cpl. Brock				
	Bates No. BBC 000194-196				
705	6/14/96 letter from Sally Dyas to Gunnery Sgt. Gethicker				
	Bates Nos. BBC 000200-201				
706	Fax cover sheet from Gethicker to Sally Dyas attaching 5/3/96 memo				
	Bates Nos. BBC 000211-212				
707	Advance Information : "Good to Go" The Rescue of Scott O'Grady from Bosnia by Mary Pat Kelly				
	Bates No. BBC 000213				
708	4/30/96 letter from Sally Dyas to Major Steve Little				
	Bates No. BBC 000214-215				
709	8/23/96 letters from Sally Dyas to Lt. D. Albritton, Capt. Gershon, Col. Riley, Lt. Fahy, Col. Natonski				
	Bates Nos. BBC 000217-221				
710	7/26/96 letters from Sally Dyas				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
	to personnel on USS Kearsarge Bates Nos. BBC 000226-227				
711	5/3/96 letter from Sally Dyas to LCDR Rob Newell, Chief of Information, USN Bates Nos. 000231-233				
712	Undated letter to D. Warman Bates No. BBC 000241				
713	11/7/96 letter from Sally Dyas to Maj. Thompson, Air Force Office of Public Affairs Bates No. BBC 0002042				
714	9/26/96 letter from Sally Dyas to Lt. Col. McGinley Bates No. BBC 000253-255				
715	9/26/96 letter from Bruce Abahams to Gill Whitecell at Wright Patterson AFB Bates No. BBC 000256				
716	9/26/96 letter from Bruce Abrahams to Major James Bolling at Springfield AFB Bates Nos. BBC 000257-259				
717	8/12/96 letter from Bruce Abrahams, et al. to Major Milord Bates No. BBC 000261				
718	7/19/96 letter from Sally Dyas to Major Guy Thompson Bates No. BBC 000262-263				
719	7/1/96 letter from Sally Dyas to Sgt. Brooks Bates No. BBC 000264				
720	5/3/96 letter from Sally Dyas to				

EX. NO.	DESCRIPTION	OFFER	OBJ.	DATE ADMIT	DATE N/ADMIT
	Major Guy Thompson Bates Nos. BBC 000270-272				
721	7/2/96 letter from Sally Dyas to Lt. Col. Osborne Bates Nos. BBC 000280-281				
722	7/2/96 letter from Sally Dyas to Ssgt. Conrad, Fairchild AFB Bates Nos. BBC 000282-283				
723	7/22/96 letter from Sally Dyas to Mr. S. Schear at The White House Bates Nos. BBC 000296-297				
724	"999 Specials Press Release" about "Missing in Action" Bates Nos. BBC 000304-307				
725	1/30/97 email from Sally Dyas to MSgt. Dale Warman Bates No. BBC 000323				
726	Notes on "Conversation with Capt. TO Hanford: 17 May 1996" Bates No. BBC 000334-335				
727	Franklin R. Johnson – Entertainment Industry Engagements				
728	Franklin R. Johnson – Litigation Counseling and Expert Testimony Engagements Involving Disputes Primarily in the Entertainment Industry				

I. LIST OF ANY PENDING MOTIONS

Defendant Twentieth Century Fox Film Corporation's Motion for Summary Judgment

Defendants Discovery Communications, Inc.'s Motion for Summary Judgment

Defendant Twentieth Century Fox Film Corporation's Objections to Plaintiff's Summary Judgment Evidence

Defendants' Joint Motion to Exclude Testimony by Expert Witness Mark A. Roesler

Defendants' Joint Motion to Exclude Testimony by Expert Witness Gabriel Gelb

O'Grady's Objections to the Declaration of Laura Handman dated August 29, 2003 Filed in Support of Defendants' Joint Motion to Exclude Testimony by Expert Witness Mark A. Roesler

J. PROBABLE LENGTH OF TRIAL

The parties believe the case should take approximately 60 trial hours divided equally between the Plaintiff and the Defendants. The parties request that the time required to show the jury the November 28 broadcast of *Behind Enemy Lines: the Scott O'Grady Story*, the tune-ins for that broadcast, and the movie *Behind Enemy Lines* should not be counted against either sides trial time.

K. MANAGEMENT CONFERENCE LIMITATIONS

None.

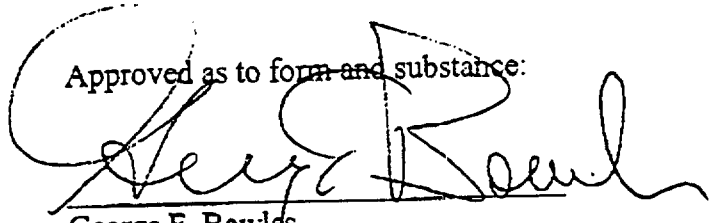
L. CERTIFICATIONS

The undersigned counsel for each of the parties to this action do hereby certify and acknowledge the following:

- (1) Full and complete disclosure has been made in accordance with the Federal Rules of Civil Procedure and the Court's orders;
- (2) Discovery limitations set forth in the Federal Rules of Civil Procedure, the Local Rules, and the Court's orders have been complied with and not altered by agreement or otherwise;
- (3) Each exhibit in the List of Exhibits herein:
 - (a) is in existence;
 - (b) is numbered; and

(c) has been disclosed and shown to opposing counsel.

Approved as to form and substance:



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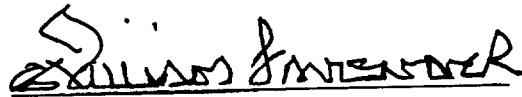
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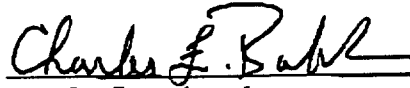
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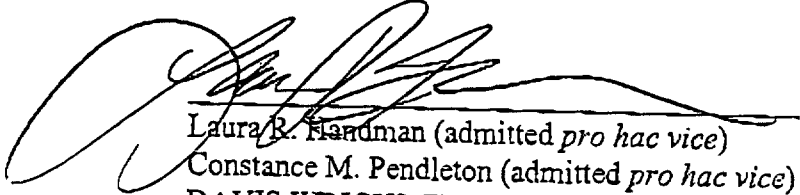
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This Joint Pre-Trial Order is hereby approved this ____ day of _____, _____

United States District Judge